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2 92nd General Assembly
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4

As Engrossed: H3/12/19

A Bill

HOUSE BILL 1763

5 By: Representatives A. Davis, *Shepherd*
6 By: Senators Hester, *J. Hendren*
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE TRANSFORMATION AND EFFICIENCIES
10 ACT OF 2019; TO ESTABLISH CABINET-LEVEL DEPARTMENTS;
11 TO TRANSFER STATE ENTITIES; TO AMEND PORTIONS OF THE
12 ARKANSAS CODE RESULTING FROM INITIATED ACT 1 OF 1914,
13 INITIATED ACT 4 OF 1948, AND INITIATED ACT 1 OF 2000;
14 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
15

Subtitle

16
17
18 TO CREATE THE TRANSFORMATION AND
19 EFFICIENCIES ACT OF 2019; TO ESTABLISH
20 CABINET-LEVEL DEPARTMENTS; TO TRANSFER
21 STATE ENTITIES; AND TO DECLARE AN
22 EMERGENCY.
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. DO NOT CODIFY. Transformation and Efficiencies Act of
28 2019.

29 (a) This act shall be known and may be cited as the "Transformation
30 and Efficiencies Act of 2019".

31 (b) If a provision of this act requires a director, commissioner, or
32 other executive head of a state entity to consult with the secretary of a
33 cabinet-level department regarding a duty or function of the state entity,
34 "consultation" means:

35 (1)(A) When working on behalf of a board or commission,
36 coordinating with and receiving input, review, and recommendations from the



1 cabinet-level secretary.

2 (B) "Consultation" under subdivision (b)(1)(A) of this
3 section does not include approval or consent; and

4 (2) When working on behalf of a state entity other than a board
5 or commission, coordinating with and receiving input, review,
6 recommendations, advice and consent of the secretary of the cabinet-level
7 department.

8 (c) As used in this act, "state entity" means any instrumentality of
9 state government, including without limitation a board, commission,
10 committee, advisory board, office, department, institution, bureau, council,
11 administrative program, agency, or division.

12
13 SECTION 2. Arkansas Code Title 25 is amended to add an additional
14 chapter to read as follows:

15 CHAPTER 43

16 CABINET-LEVEL DEPARTMENTS OF THE EXECUTIVE BRANCH

17
18 Subchapter 1 – General Provisions

19
20 25-43-101. Cabinet-level departments established.

21 This chapter establishes the cabinet-level departments of the executive
22 branch under the Transformation and Efficiencies Act of 2019.

23
24 25-43-102. Legislative findings and intent – Construction.

25 (a) The General Assembly finds that this chapter is necessary to:

26 (1) Reorganize the structure of state government;

27 (2) Improve the delivery of services to the people of this
28 state;

29 (3) Provide sufficient flexibility to meet changing conditions;

30 (4) Establish a clear and orderly organizational structure of
31 state government;

32 (5) Provide a reasonable opportunity to create budgetary and
33 administrative efficiencies within an orderly organizational structure of
34 state government;

35 (6) Effect the grouping of state entities primarily according to
36 function into a limited number of cabinet-level departments; and

1 (7) Minimize overlapping of authority and duplication of effort.

2 (b) It is the intent of the General Assembly to provide for an orderly
3 transfer of certain powers, duties, and functions of the various state
4 entities as described herein to the cabinet-level departments with a minimum
5 of disruption to governmental services and functions and with a minimum of
6 expense.

7 (c) This chapter shall be liberally construed.

8
9 25-43-103. Definitions.

10 As used in this chapter, unless otherwise provided by law:

11 (1)(A) "Administrative functions" means the day-to-day business
12 operations of a state entity, including without limitation employment,
13 payroll, property management, benefit management, human resource operations,
14 and accounting operations of a state entity, and all other duties as assigned
15 by the secretary of the cabinet-level department or his or her designee.

16 (B) "Administrative functions" does not include the
17 promulgation of rules or issuance of orders on behalf of any state entity
18 unless specifically designated by statute, rule, order, or directive;

19 (2) "Cabinet-level department" means one (1) of the fifteen (15)
20 executive agencies designated to provide state services and provide direct
21 reports to the Governor;

22 (3) "Cabinet-level department transfer" means a transfer of the
23 administrative functions of a state entity to a cabinet-level department
24 under this chapter;

25 (4) "Employee" means a person employed to carry out the
26 functions of a state entity; and

27 (5) "State entity" means any instrumentality of state
28 government, including without limitation a board, commission, committee,
29 advisory board, office, department, institution, bureau, council,
30 administrative program, agency, or division.

31
32 25-43-104. Cabinet-level departments.

33 (a) The following cabinet-level departments are created:

34 (1) The Department of Agriculture;

35 (2) The Department of Commerce;

36 (3) The Department of Corrections;

- 1 (4) The Department of Education;
2 (5) The Department of Energy and Environment;
3 (6) The Department of Finance and Administration;
4 (7) The Department of Health;
5 (8) The Department of Human Services;
6 (9) The Department of the Inspector General;
7 (10) The Department of Labor and Licensing;
8 (11) The Department of the Military;
9 (12) The Department of Parks, Heritage, and Tourism;
10 (13) The Department of Public Safety;
11 (14) The Department of Transformation and Shared Services; and
12 (15) The Department of Veterans Affairs.

13 (b) All cabinet-level departments are executive agencies and report to
14 the Governor.

15 (c) The General Assembly may prescribe duties to the cabinet-level
16 departments and the various state entities that are administered by the
17 cabinet-level departments.

18 (d) Each cabinet-level department shall consist of the state entities
19 transferred by a cabinet-level department transfer under this chapter and
20 other state entities as provided by law.

21
22 25-43-105. Cabinet-level department transfers.

23 (a) The administrative functions of a state entity subject to a
24 cabinet-level department transfer under this chapter shall be administered
25 under the direction and supervision of the cabinet-level department into
26 which the state entity is transferred.

27 (b) A state entity subject to a cabinet-level department transfer of
28 the state entity's administrative functions under this chapter shall make
29 available to the cabinet-level department all records of the administrative
30 functions of the state entity, unless otherwise provided by law.

31 (c)(1) The employees of a state entity subject to a cabinet-level
32 department transfer under this chapter shall be considered employees of the
33 cabinet-level department.

34 (2) The job descriptions, duties, salaries, and benefits of the
35 employee positions shall be determined by the secretary of the cabinet-level
36 department as consistent with Arkansas law, unless otherwise provided by law.

1 (3) The employees of a state entity subject to a cabinet-level
2 department transfer under this chapter shall be compensated in accordance
3 with the Uniform Classification and Compensation Act, § 21-5-201 et seq.,
4 except as otherwise provided by law.

5 (4) The programs and positions funded by special funds allocated
6 by law to a state entity subject to a cabinet-level department transfer under
7 this chapter shall continue to be used for the designated purposes of the
8 programs and positions.

9 (5) This section does not reduce any right that an employee of a
10 state entity transferred subject to a cabinet-level department transfer under
11 this chapter has under any civil service or merit system.

12 (d) A cabinet-level department shall provide all administrative
13 support, employment needs, and staff to carry out the orders, rules,
14 regulations, directives, and standards promulgated or issued by the state
15 entities subject to a cabinet-level department transfer under this chapter,
16 unless otherwise provided by law.

17 (e) A state entity subject to a cabinet-level department transfer
18 under this chapter shall be administered under the direction and supervision
19 of the cabinet-level department but shall otherwise continue to exercise the
20 stated statutory authority, powers, duties, and functions as exercised before
21 the cabinet-level department transfer, unless otherwise provided by law,
22 including without limitation:

23 (1) The promulgation of rules;

24 (2) The collection of fees;

25 (3) The licensing, certification, or registration authority over
26 designated occupations; and

27 (4) The creation of programs unless otherwise provided by law.

28 (f)(1) Any revenue, including without limitation cash funds, special
29 revenue, trust fund income, federal grants, aid, reimbursements, nonrevenue
30 receipts, and other moneys, securities and investments held in accounts by a
31 state entity subject to a cabinet-level department transfer under this
32 chapter, including without limitation unexpended balances that may be carried
33 forward:

34 (A) Shall not be transferred to the cabinet-level
35 department;

36 (B) Shall continue to be held in the accounts; and

1 (C) Shall be used solely for the purposes for which the
2 revenue was collected as provided by law.

3 (2) Revenue under subdivision (f)(1) of this section includes
4 revenue regardless of when collected, including without limitation revenue
5 collected after the effective date of this chapter.

6 (g)(1) Except as provided in subdivision (g)(2) of this section, all
7 records, employees, unexpended balances of state appropriations or state
8 allocations, and functions of budgeting and purchasing of a state entity
9 subject to a cabinet-level department transfer under this chapter are
10 transferred to the cabinet-level department.

11 (2) All records pertaining to bonds issued by a state entity
12 subject to a cabinet-level department transfer under this chapter shall
13 remain with the state entity subject to a cabinet-level department transfer
14 under this chapter.

15 (h)(1) All real property owned in fee simple by a state entity subject
16 to a cabinet-level department transfer under this chapter shall remain in the
17 name of the state entity subject to a cabinet-level department transfer under
18 this chapter, to be administered by the cabinet-level department.

19 (2)(A) Except as otherwise provided in subdivision (h)(2)(B) or
20 (h)(2)(C) of this section, all other property of the state entity subject to
21 a cabinet-level department transfer under this chapter, including without
22 limitation real property not subject to subdivision (h)(1) of this section,
23 personal property, fixtures, contracts, and assignable leases, shall be
24 transferred to the cabinet-level department.

25 (B) Any property constructed using special or cash revenue
26 of a state entity subject to a cabinet-level department transfer under this
27 chapter shall remain the property of the state entity subject to a cabinet-
28 level department transfer under this chapter.

29 (C) Contracts, instruments, or securities pertaining to or
30 made in connection with the issuance of bonds or financing of programs shall
31 not be transferred to the cabinet-level department by a state entity subject
32 to a cabinet-level department transfer under this chapter.

33 (i) A state entity subject to a cabinet-level department transfer
34 under this chapter may continue to use all remaining stationary, branded
35 material, or other similar items until the stationary, branded material, or
36 other similar items are expended.

1 (j)(1) A state entity subject to a cabinet-level department transfer
2 under this chapter currently designated as a public body politic and
3 corporate shall continue as a public body politic and corporate.

4 (2) Bonds or other obligations of a state entity subject to a
5 cabinet-level department transfer under this chapter currently designated as
6 a public body politic and corporate shall:

7 (A) Continue to state on their face that such bonds are
8 obligations only of the state entity subject to a cabinet-level department
9 transfer under this chapter; and

10 (B) In no event constitute:

11 (i) An indebtedness of the State of Arkansas;

12 (ii) An indebtedness for which the faith and credit
13 of the State of Arkansas or any of its revenue are pledged; or

14 (iii) A secured lien on or a security interest in
15 property of the state.

16
17 25-43-106. Cabinet-level departments – Powers and duties.

18 (a) A cabinet-level department shall:

19 (1) Execute the powers and duties prescribed by law;

20 (2) Administer each state entity subject to a cabinet-level
21 department transfer under this chapter;

22 (3) Make contracts, grants, and employ, to the extent funds are
23 available, such employees as are necessary to carry out the purposes of the
24 cabinet-level department and each state entity administered by the cabinet-
25 level department; and

26 (4) Perform all administrative functions of a state entity
27 subject to a cabinet-level department transfer under this chapter, unless
28 otherwise provided by law.

29 (b) A cabinet-level department may:

30 (1) Assist other state entities and federal departments,
31 agencies, boards, commissions, and institutions, by performing services in
32 conformity with the purposes of the cabinet-level department;

33 (2) Maintain and administer real property on behalf of each a
34 state entity subject to a cabinet-level department transfer under this
35 chapter, unless otherwise provided by law;

36 (3) Maintain and administer all other property on behalf of a

1 state entity subject to a cabinet-level department transfer under this
2 chapter, unless otherwise provided by law;

3 (4) Provide administrative support, employment needs, and staff
4 to carry out the orders, rules, regulations, directives, or standards
5 promulgated or issued by each state entity over which the cabinet-level
6 department has administrative control; and

7 (5) Share business and administrative services across each
8 cabinet-level department as determined necessary by the secretary of the
9 cabinet-level department.

10
11 25-43-107. Effect on preexisting rules, regulations, etc.

12 (a) The Transformation and Efficiencies Act of 2019 does not affect
13 the orders, rules, regulations, directives, or standards made or promulgated
14 prior to the effective date of the Transformation and Efficiencies Act of
15 2019 by a state entity subject to a cabinet-level department transfer under
16 this chapter.

17 (b) The orders, rules, regulations, directives, or standards under
18 subsection (a) of this section shall continue with full force and effect
19 until amended or repealed pursuant to authority given by law.

20 (c) The following shall not be impaired in any way by the
21 Transformation and Efficiencies Act of 2019 and shall continue with full
22 force and effect:

23 (1) Bonds issued by the Arkansas Development Finance Authority;

24 (2) Contracts and obligations securing bonds issued by the
25 Arkansas Development Finance Authority or pertaining to bonds issued by the
26 Arkansas Development Finance Authority; and

27 (3) Programs financed by bonds issued by the Arkansas
28 Development Finance Authority.

29
30 25-43-108. Cabinet-level department secretary.

31 (a) A secretary of a cabinet-level department shall, unless otherwise
32 provided by law:

33 (1) Be the executive head of each cabinet-level department;

34 (2) Be appointed by the Governor, subject to confirmation by the
35 Senate;

36 (3) Serve at the pleasure of the Governor;

1 (4) Before entering upon his or her respective duties, take and
2 subscribe to and file in the office of the Secretary of State, the oath under
3 Arkansas Constitution, Article 19, § 20, that he or she will support the
4 Unites States Constitution and the Arkansas Constitution and faithfully
5 perform the duties upon which he or she is about to enter; and

6 (5)(A) Furnish bond to the state, with a corporate surety, in
7 the sum of ten thousand dollars (\$10,000).

8 (B) The bond under subdivision (a)(5)(A) of this section
9 shall be conditioned that he or she will faithfully perform his or her duties
10 of employment and properly account for all funds received and disbursed by
11 him or her.

12 (C) The bond shall be filed with the Secretary of State
13 and an executed counterpart of the bond shall be filed with the Auditor of
14 State.

15 (b)(1) Unless otherwise provided by law, each division of the cabinet-
16 level department shall be under the direction, control, and supervision of
17 the secretary of the cabinet-level department.

18 (2) The secretary of the cabinet-level department shall hire
19 department employees, unless otherwise provided by law.

20 (c) The secretary may, unless otherwise provided by law:

21 (1) Delegate his or her functions, powers, and duties to various
22 divisions or employees of the cabinet-level department as he or she shall
23 deem desirable and necessary for the effective and efficient operation of the
24 cabinet-level department;

25 (2) Perform or assign duties assigned to the cabinet-level
26 department; and

27 (3) Serve as the director, or the administrative or executive
28 head of any state entity under the administrative control of the cabinet-
29 level department if the secretary also meets all statutory requirements for
30 the position.

31 (d) There is hereby created one (1) new classification and position for
32 the executive head for each cabinet-level department, designated as follows:

33 (1) Secretary of the Department of Agriculture;

34 (2) Secretary of the Department of Commerce;

35 (3) Secretary of the Department of Corrections;

36 (4) Secretary of the Department of Education;

- 1 (5) Secretary of the Department of Energy and Environment;
2 (6) Secretary of the Department of Finance and Administration;
3 (7) Secretary of the Department of Health;
4 (8) Secretary of the Department of Human Services;
5 (9) Secretary of the Department of Inspector General;
6 (10) Secretary of the Department of Labor and Licensing;
7 (11) Secretary of the Department of the Military;
8 (12) Secretary of the Department of Parks, Heritage, and
9 Tourism;
10 (13) Secretary of the Department of Public Safety;
11 (14) Secretary of the Department of Transformation and Shared
12 Services; and
13 (15) Secretary of the Department of Veterans Affairs.

14 (e) The secretary may be compelled by mandamus to perform any duties
15 or obligations under a bond, contract, or agreement issued, made, or to be
16 performed by each state entity administered by the cabinet-level department.

17 (f) If a provision of the Transformation and Efficiencies Act of 2019
18 requires a director, commissioner, or other executive head of a state entity
19 to consult with the secretary of a cabinet-level department regarding a duty
20 or function of the state entity, "consultation" means:

21 (1)(A) When working on behalf of a board or commission,
22 coordinating with and receiving input, review, and recommendations from the
23 cabinet-level department secretary.

24 (B) Consultation under subdivision (f)(1)(A) of this
25 section does not include approval or consent; and

26 (2) When working on behalf of a state entity other than a board
27 or commission, coordinating with and receiving input, review,
28 recommendations, advice, and consent of the secretary of the cabinet-level
29 department.

30
31 25-43-109. Correction of technical errors related to transformation of
32 state government.

33 (a)(1) The General Assembly finds that:

34 (A) The transformation of the structure of state
35 government under the Transformation and Efficiencies Act of 2019 involves
36 changes to thousands of sections of the Arkansas Code concerning state

1 entities;

2 (B) Many of the changes required are highly technical and
3 require careful study of the purpose and context of each Arkansas Code
4 section, with the need for some of the changes not becoming apparent until
5 the implementation of the transformation of state government under this
6 chapter;

7 (C) With a project as large and comprehensive as the
8 transformation of state government under this chapter, it is inevitable that
9 certain sections of the Arkansas Code requiring technical changes to follow
10 the intent of this chapter will be either omitted or amended in a manner that
11 is later found to be erroneous and unintentional; and

12 (D) If the correct statutory change to remedy an
13 unintentional error is readily apparent and consistent with the intent of
14 this chapter, the unintentional error should be corrected as part of the
15 codification process due to the technical nature of the unintentional error.

16 (2) It is the intent of the General Assembly to empower the
17 Arkansas Code Revision Commission to correct technical errors identified in
18 the Arkansas Code during the transformation of the structure of state
19 government under this chapter to allow this chapter to be fully implemented.

20 (b)(1)(A) Any person or state entity identifying one (1) or more
21 sections of the Arkansas Code that require revision to implement the intent
22 of this chapter may notify the Director of the Bureau of Legislative Research
23 or his or her designee of the section or sections at issue.

24 (B) If the Bureau of Legislative Research, while assisting
25 the commission with the commission's powers and duties, becomes aware of one
26 (1) or more sections of the Arkansas Code that require revision to implement
27 the intent of this chapter for which it appears that the bureau and the
28 commission do not have authority to make the necessary revision under § 1-2-
29 303(d), the bureau may notify the commission of the section or sections at
30 issue.

31 (2) If the commission determines that the revision necessary to
32 one (1) or more sections of the Arkansas Code under subdivision (b)(1) of
33 this section is technical in nature, germane to the intent of this chapter,
34 and consistent with this chapter's policy and purposes, the commission may
35 make the revision to the Arkansas Code.

36 (3) The commission shall notify the publisher of the Arkansas

1 Code of a revision to the Arkansas Code under subdivision (b)(2) of this
2 section as soon as possible so that the revision may be reflected in the
3 official hard copy version of the Arkansas Code and official electronic
4 version of the Arkansas Code.

5 (4)(A) Except as provided in subdivision (b)(4)(B) of this
6 section, when the commission approves a revision to the Arkansas Code under
7 subdivision (b)(2) of this section, the commission shall notify the following
8 of the revision within thirty (30) days:

9 (i) The Speaker of the House of Representatives;

10 (ii) The President Pro Tempore of the Senate; and

11 (iii) The Legislative Council.

12 (B) The commission is not required to make a notification
13 under subdivision (b)(4)(A) of this section if the revision is made under §
14 1-2-303(d).

15 (c) The authority granted to the commission under this section is
16 supplemental to the commission's authority under § 1-2-303.

17
18 25-43-110. Funds and personnel transferred.

19 (a) A fund or fund account name that due to the implementation of the
20 Transformation and Efficiencies Act of 2019 has not been revised in an
21 appropriation or in the Arkansas Code to the same fund or fund account name
22 enacted by the Ninety-Second General Assembly, shall be payable from the
23 appropriation enacted with the fund or fund account name as originally
24 enacted by the Ninety-Second General Assembly.

25 (b) Unless otherwise provided by law, when all or part of a state
26 entity is subject to a cabinet-level department transfer, the state entity's
27 authorized classifications, employees, property, unexpended balances of
28 appropriations, allocations, and funds are transferred to the cabinet-level
29 department as authorized under this chapter.

30 (c)(1) A state entity appropriation transferred from a paying account
31 or fund not established in a cabinet-level department, due to the
32 implementation of the Transformation and Efficiencies Act of 2019, is payable
33 and appropriated from a cash fund established in the State Treasury in the
34 same amount and for the same purpose as that transferred state entity.

35 (2) At no time may funding or cash fund appropriation be
36 established under subsection (c) of this section that is not authorized to be

1 transferred or in a greater amount than is transferred.

2 (d)(1) Any classification title for a state entity that is subject to
3 a cabinet-level department transfer under this chapter may be revised as
4 determined appropriate by the Office of Personnel Management to reference the
5 appropriate state entity.

6 (2) The authority under subsection (d) of this section does not
7 allow for revisions to:

8 (A) A pay grade;

9 (B) A line item;

10 (C) The number of authorized classifications; or

11 (D) A job duty.

12
13 25-43-111. State entity subject to Arkansas Constitution, Amendment
14 33.

15 (a) Notwithstanding any provision of the Transformation and
16 Efficiencies Act of 2019, if a state entity subject to a cabinet-level
17 department transfer under this chapter is subject to Arkansas Constitution,
18 Amendment 33:

19 (1) The state entity subject to Arkansas Constitution, Amendment
20 33, and the institutions under its authority shall be considered to be
21 affiliated with the cabinet-level department at issue; and

22 (2) The state entity subject to Arkansas Constitution, Amendment
23 33, shall perform all functions with respect to the management and control of
24 the state entity and the institutions under its authority as contemplated by
25 Arkansas Constitution, Amendment 33.

26 (b) The Transformation and Efficiencies Act of 2019 shall not abridge,
27 diminish, or curtail, in any respect, the authority or responsibilities
28 vested in a state entity that is subject to Arkansas Constitution, Amendment
29 33, and affiliated with a cabinet-level department under the Transformation
30 and Efficiencies Act of 2019.

31
32 SECTION 3. Arkansas Code Title 25, Chapter 43, is amended to add an
33 additional subchapter to read as follows:

34 Subchapter 2 – Department of Agriculture

35
36 25-43-201. Department of Agriculture.

1 There is created the Department of Agriculture as a cabinet-level
2 department.

3
4 25-43-202. State entities transferred to Department of Agriculture.

5 (a) As provided in §§ 25-38-206 and 25-38-211, the following state
6 entities, or parts thereof, are transferred to the Department of Agriculture
7 by a cabinet-level department transfer:

8 (1) The Abandoned Pesticide Advisory Board, created under § 8-7-
9 1204;

10 (2) The Arkansas Agriculture Board, created under § 25-38-207;

11 (3) The Arkansas Agriculture Department, created under § 25-38-
12 202, and now to be known as the Department of Agriculture;

13 (4) The Arkansas Bureau of Standards, created under Acts 1963,
14 No. 482 and codified under § 4-18-201 (repealed);

15 (5) The Arkansas Boll Weevil Eradication Committee;

16 (6) The Arkansas Farm Mediation Office, created under § 2-7-201;

17 (7) The Arkansas Fire Ant Advisory Board, created under § 2-16-
18 701;

19 (8) The Arkansas Forestry Commission, created under § 15-31-101;

20 (9) The Arkansas Livestock and Poultry Commission, created under
21 § 2-33-101;

22 (10) The Arkansas Milk Stabilization Board, created under § 2-
23 10-103;

24 (11) The Arkansas Natural Resources Commission, created under §
25 15-20-201;

26 (12) The Arkansas Seed Arbitration Committee, created under § 2-
27 23-104;

28 (13) The Arkansas State Board of Registration for Foresters,
29 created under § 17-31-201;

30 (14) The Arkansas State Board of Registration for Professional
31 Soil Classifiers, created under § 17-47-201;

32 (15) The Arkansas Unpaved Roads Program, created under § 14-305-
33 104;

34 (16) The Commission on Water Well Construction, created under §
35 17-50-201;

36 (17) The Litter Utilization Committee, created under § 15-20-

1 1110;

2 (18) The Private Wetland and Riparian Zone Creation,
3 Restoration, and Conservation Committee, created under § 26-51-1503;

4 (19) The Ouachita River Commission, created under § 15-23-803;

5 (20) The Red River Compact Commission, created under § 15-23-
6 501;

7 (21) The State Plant Board, created under § 2-16-206;

8 (22) The Veterinary Medical Examining Board, created under § 17-
9 101-201; and

10 (23) The Wetlands Technical Advisory Committee, created under §
11 15-22-1003.

12 (b) If there is a conflict between the cabinet-level transfers of the
13 state entities listed in subdivisions (a)(1)-(23) of this section and either
14 the transfer of these same state entities under § 25-38-211 or the transfer
15 of their respective personnel, administrative functions, and human resource
16 and accounting operations under § 25-38-206, then the transfer provisions
17 under §§ 25-38-206 and 25-38-211 shall apply.

18 (c) Unless otherwise provided by law, a cabinet-level department
19 transfer under subsection (a) of this section includes all state entities
20 under a state entity transferred to the Department of Agriculture under
21 subsection (a) of this section, including without limitation a division,
22 office, program, or other unit of a state entity transferred to the
23 Department of Agriculture under subsection (a) of this section.

24 (d) Unless otherwise provided by law, a state entity whose
25 administrative functions have been transferred to the Department of
26 Agriculture under subsection (a) of this section shall otherwise continue to
27 exercise the duties of the state entity under the administration of the
28 cabinet-level Department of Agriculture in the same manner as before the
29 creation of the cabinet-level department.

30
31 SECTION 4. Arkansas Code § 25-38-202 is amended to read as follows:

32 25-38-202. Creation – Appointment of secretary.

33 (a) There is created the ~~Arkansas Agriculture Department~~ Department of
34 Agriculture as a cabinet-level department under § 25-43-105.

35 (b)(1) The executive head of the department shall be the Secretary of
36 the ~~Arkansas Agriculture Department~~ Department of Agriculture.

1 (2) The secretary shall be selected by the Arkansas Agriculture
2 Board, and the name shall be submitted to the Governor and the Senate for
3 confirmation. The secretary shall serve at the pleasure of the Governor.

4 (3) The secretary may:

5 (A) Delegate to the employees of the Department of
6 Agriculture any of the powers or duties of the department required to
7 administer the:

8 (i) Statutory duties; and

9 (ii) Rules, orders, or directives promulgated or
10 issued by the:

11 (a) Abandoned Pesticide Advisory Board;

12 (b) Arkansas Agriculture Board;

13 (c) Arkansas Boll Weevil Eradication

14 Committee;

15 (d) Arkansas Bureau of Standards;

16 (e) Arkansas Farm Mediation Office;

17 (f) Arkansas Fire Ant Advisory Board;

18 (g) Arkansas Forestry Commission;

19 (h) Arkansas Livestock and Poultry Commission;

20 (i) Arkansas Milk Stabilization Board;

21 (j) Arkansas Natural Resources Commission;

22 (k) Arkansas Seed Arbitration Committee;

23 (l) Arkansas State Board of Registration for

24 Foresters;

25 (m) Arkansas State Board of Registration for

26 Professional Soil Classifiers;

27 (n) Arkansas Unpaved Roads Program;

28 (o) Commission on Water Well Construction;

29 (p) Litter Utilization Committee;

30 (q) Ouachita River Commission;

31 (r) Private Wetland and Riparian Zone

32 Creation, Restoration, and Conservation Committee;

33 (s) Red River Compact Commission;

34 (t) State Plant Board;

35 (u) Veterinary Medical Examining Board;

36 (v) Wetlands Technical Advisory Committee; or

1 (w) Other state entities under the Department
2 of Agriculture;
3 (B) Hire department personnel, unless otherwise provided
4 by law; and
5 (C) Perform or assign duties assigned to the Department of
6 Agriculture.

7
8 SECTION 5. Arkansas Code § 25-38-203 is amended to read as follows:

9 25-38-203. ~~Arkansas Agriculture Department~~ Department of Agriculture -
10 Powers and duties.

11 The ~~Arkansas Agriculture Department~~ Department of Agriculture shall:

12 (1) Administer the departments, institutions, other agencies, or
13 parts of departments, institutions, or other agencies transferred to the
14 department under ~~§§ 25-38-204 and 25-38-205~~ 25-38-211;

15 (2) Coordinate all existing programs and create any new programs
16 that will enhance the marketing of the state's agricultural products to
17 intrastate, national, and international markets;

18 (3) Establish a clearinghouse for collecting, correlating,
19 analyzing, and interpreting marketing and educational information and data
20 concerning the needs of and resources for agriculture, aquaculture,
21 horticulture, forestry, and kindred industries;

22 (4) Develop a website devoted to marketing and education
23 concerning agriculture, aquaculture, horticulture, forestry, and kindred
24 industries, including a distinctive logo publicizing products as "Grown in
25 Arkansas";

26 (5) Encourage the organization of neighborhood and county
27 agricultural clubs and associations;

28 (6) Coordinate the various activities of the department with
29 those of the federal government and other states on matters pertaining to
30 agriculture, aquaculture, horticulture, forestry, and kindred industries and
31 enter into agreements for that purpose;

32 (7) Coordinate with existing programs concerning agriculture,
33 aquaculture, horticulture, forestry, and kindred industries with the
34 ~~University of Arkansas~~ Division of Agriculture of the University of Arkansas;

35 (8) Make all contracts and grants and employ, to the extent
36 funds are available, such personnel as may be necessary to carry out the

1 purposes of this chapter; and

2 (9) Assist other departments, agencies, and institutions of the
3 state and federal governments, when so requested, by performing services in
4 conformity with the purposes of this chapter;

5 (10) Establish a uniform allowance program for certain staff and
6 field employees;

7 (11) Prepare and submit annually to the Governor a report of the
8 department's expenditures and accomplishments, including information from all
9 entities administered by the department; and

10 (12) Designate employees who shall have the powers of peace
11 officers or institutional law enforcement officers in the enforcement of the
12 criminal laws of this state.

13
14 SECTION 6. Arkansas Code § 25-38-204 is repealed.

15 ~~25-38-204. Type 1 transfers of various agricultural agencies.~~

16 ~~The following departments, institutions, other agencies, or parts~~
17 ~~thereof, are transferred to the Arkansas Agriculture Department by a type 1~~
18 ~~transfer, as provided for in § 25-2-104, under which the departments,~~
19 ~~institutions, other agencies, or parts thereof, shall be administered under~~
20 ~~the direction and supervision of that principal department, but shall retain~~
21 ~~the same prescribed statutory powers, authorities, duties, and functions as~~
22 ~~they had before the transfer:~~

23 ~~(1) Abandoned Pesticide Advisory Board, created under § 8-7-~~
24 ~~1204;~~

25 ~~(2) Arkansas Forestry Commission, created under § 15-31-101;~~

26 ~~(3) Arkansas Livestock and Poultry Commission, created under §~~
27 ~~2-33-101;~~

28 ~~(4) State Plant Board, created under § 2-16-206; and~~

29 ~~(5) Aquaculture business enterprise facilities and operations~~
30 ~~with the Arkansas Development Finance Authority.~~

31
32 SECTION 7. Arkansas Code § 25-38-206 is amended to read as follows:

33 25-38-206. Transfer of personnel, administrative functions, human
34 resources, and accounting offices.

35 (a) ~~The human resource and accounting operations~~ All administrative
36 functions, including without limitation the human resource and accounting

1 operations, of the following boards, ~~and~~ commissions, bureaus, committees,
 2 programs, and offices shall be administered under the direction and
 3 supervision of the ~~Arkansas Agriculture Department~~ Department of Agriculture:

- 4 (1) The State Plant Board;
- 5 (2) The Arkansas Livestock and Poultry Commission; ~~and~~
- 6 (3) The Arkansas Forestry Commission;
- 7 (4) The Arkansas Natural Resources Commission;
- 8 (5) The Arkansas State Board of Registration for Foresters;
- 9 (6) The Veterinary Medical Examining Board;
- 10 (7) The Abandoned Pesticide Advisory Board;
- 11 (8) The Commission on Water Well Construction;
- 12 (9) The Red River Compact Commission;
- 13 (10) The Arkansas Bureau of Standards;
- 14 (11) The Arkansas State Board of Registration for Professional
 15 Soil Classifiers;
- 16 (12) The Arkansas Farm Mediation Office;
- 17 (13) The Arkansas Boll Weevil Eradication Committee;
- 18 (14) The Arkansas Fire Ant Advisory Board;
- 19 (15) The Arkansas Milk Stabilization Board;
- 20 (16) The Arkansas Seed Arbitration Committee;
- 21 (17) The Arkansas Unpaved Roads Program;
- 22 (18) The Litter Utilization Committee;
- 23 (19) The Ouachita River Commission;
- 24 (20) The Arkansas Agriculture Board;
- 25 (21) The Private Wetland and Riparian Zone Creation,
 26 Restoration, and Conservation Committee; and
- 27 (22) The Wetlands Technical Advisory Committee.

28 (b) The boards, ~~and~~ commissions, committees, bureaus, programs, and
 29 offices subject to transfer of the ~~administration of human resource and~~
 30 ~~accounting operations~~ administrative functions under subsection (a) of this
 31 section shall make available to the department all records of whatever type
 32 concerning ~~their human resource and accounting operations~~ the administrative
 33 functions of the boards, commissions, committees, bureaus, programs, or
 34 offices.

35 (c)(1) All employees of the boards, commissions, committees, bureaus,
 36 programs, or offices transferred under § 25-38-211 and subsection (a) of this

1 section shall be employees of the Department of Agriculture.

2 (2) All job descriptions, duties, salaries, and benefits shall
3 be determined by the Secretary of the Department of Agriculture as consistent
4 with Arkansas law.

5 (3) All programs and positions funded by special funds allocated
6 by law to the boards, commissions, committees, bureaus, programs, or offices
7 subject to the transfer under § 25-38-211 and subsection (a) of this section
8 shall continue to be used for the designated purposes of the programs and
9 positions.

10 (4) The department shall provide all administrative support,
11 employment needs, and staff to carry out the rules, directives, and orders
12 promulgated or issued by the state entities transferred under subsection (a)
13 of this section and § 25-38-211.

14 (d) "Administrative functions" does not include the promulgation of
15 rules or issuance of orders on behalf of any of the entities transferred
16 under subsection (a) of this section and § 25-38-211.

17
18 SECTION 8. Arkansas Code Title 25, Chapter 38, Subchapter 2, is
19 amended to add an additional section to read as follows:

20 25-38-211. Transfers of certain agricultural boards, commissions,
21 committees, bureaus, programs, and offices.

22 (a) As provided in this section and in § 25-38-206, the following
23 boards, commissions, committees, bureaus, programs, or offices, or parts
24 thereof, are transferred by a cabinet-level department transfer under § 25-
25 43-103(3) to the Department of Agriculture:

26 (1) The Abandoned Pesticide Advisory Board, created under § 8-7-
27 1204;

28 (2) The Arkansas Agriculture Board, created under § 25-38-207;

29 (3) The Arkansas Bureau of Standards, created under § 4-18-311;

30 (4) The Arkansas Boll Weevil Eradication Committee, created
31 under § 2-16-612;

32 (5) The Arkansas Farm Mediation Office, created under § 2-7-201;

33 (6) The Arkansas Fire Ant Advisory Board, created under § 2-16-
34 701;

35 (7) The Arkansas Forestry Commission, created under § 15-31-101;

36 (8) The Arkansas Livestock and Poultry Commission, created under

1 § 2-33-101;

2 (9) The Arkansas Milk Stabilization Board, created under § 2-10-
3 103;

4 (10) The Arkansas Natural Resources Commission, created under §
5 15-20-201;

6 (11) The Arkansas Seed Arbitration Committee, created under § 2-
7 23-104;

8 (12) The Arkansas State Board of Registration for Foresters,
9 created under § 17-31-201;

10 (13) The Arkansas State Board of Registration for Professional
11 Soil Classifiers, created under § 17-47-201;

12 (14) The Arkansas Unpaved Roads Program, created under § 14-305-
13 104;

14 (15) The Commission on Water Well Construction, created under §
15 17-50-201;

16 (16) The Litter Utilization Committee, created under § 15-20-
17 1110;

18 (17) The Private Wetland and Riparian Zone Creation,
19 Restoration, and Conservation Committee, created under § 26-51-1503;

20 (18) The Ouachita River Commission, created under § 15-23-803;

21 (19) The Red River Compact Commission, created under § 15-23-
22 501;

23 (20) The State Plant Board, created under § 2-16-206;

24 (21) The Veterinary Medical Examining Board, created under § 17-
25 101-201; and

26 (22) The Wetlands Technical Advisory Committee, created under §
27 15-22-1003.

28 (b) The transfer under subdivision (a) of this section supersedes
29 previous transfers, including without limitation the transfers under § 25-38-
30 204.

31 (c) For purposes of this section, the Department of Agriculture shall
32 be considered a principal department as established by Acts 1971, No. 38.

33 (d) The transferred entities shall be administered under the direction
34 and supervision of the Department of Agriculture but shall continue to
35 exercise their statutory authority, powers, duties, and functions as before
36 the transfer, including without limitation the promulgation of rules, the

1 collection of fees, and the creation of programs.

2 (e) All revenue and future revenue, including without limitation cash
3 funds, special revenue, trust funds, trust fund income, federal grants, aid,
4 reimbursements, nonrevenue receipts, and other moneys held in accounts by the
5 transferred boards, commissions, bureaus, programs, committees, or offices,
6 including without limitation unexpended balances that may be carried forward,
7 shall continue to be held in the accounts and shall be used solely for the
8 purposes for which the revenue was collected as provided by law.

9 (f) All records, personnel, and unexpended balances of state
10 appropriations or allocations, including the functions of budgeting and
11 purchasing, are transferred to the Department of Agriculture.

12 (g) All real property owned by a transferred entity shall remain in
13 the name of the transferred entity, to be administered by the Department of
14 Agriculture, and all other property shall be transferred to the Department of
15 Agriculture.

16
17 SECTION 9. Arkansas Code § 2-1-102(c)(1), concerning the definition of
18 "sustainable", is amended to read as follows:

19 (c)(1) ~~The Arkansas Agriculture Department~~ Department of Agriculture
20 and the State Plant Board shall interpret any administrative rule promulgated
21 by a state or federal agency that establishes standards for harvesting or
22 producing agricultural crops in accordance with the definition and guidelines
23 provided in this section.

24
25 SECTION 10. Arkansas Code § 2-5-204(b), concerning powers and duties
26 of the State Plant Board, is repealed.

27 ~~(b) The board may authorize the Director of the State Plant Board to~~
28 ~~appoint any deputy the board considers necessary to implement this~~
29 ~~subchapter.~~

30
31 SECTION 11. Arkansas Code § 2-7-201 is amended to read as follows:
32 2-7-201. Creation.

33 (a) There is hereby created within the ~~Arkansas Development Finance~~
34 ~~Authority~~ Department of Agriculture the Arkansas Farm Mediation Office which
35 shall administer the Arkansas Farm Mediation Program to provide mediation and
36 debt management services to farmers and their creditors in the State of

1 Arkansas.

2 (b)(1) The program shall be administered by the ~~President of the~~
3 ~~Arkansas Development Finance Authority~~ Secretary of the Department of
4 Agriculture who shall employ mediators and administrative staff in such
5 numbers as are necessary and as the General Assembly may appropriate to carry
6 out the provisions of this chapter.

7 (2) The ~~president~~ Secretary of the Department of Agriculture may
8 apply to the United States Secretary of Agriculture or any other agency or
9 department for any financial assistance for the administration and operation
10 of the program.

11 (3) The ~~president~~ Secretary of the Department of Agriculture or
12 his or her designee shall select mediators who are knowledgeable in the areas
13 of finance, agriculture, and negotiation and shall train them in any other
14 matters as are necessary to carry out their functions under this chapter.

15 (4) The ~~president~~ Secretary of the Department of Agriculture may
16 promulgate rules to carry out the provisions of this chapter.

17

18 SECTION 12. Arkansas Code § 2-10-103(i) is amended to read as follows:

19 (i) The Secretary of the ~~Arkansas Agriculture Department~~ Department of
20 Agriculture and the ~~Deputy Director of the Arkansas Livestock and Poultry~~
21 ~~Commission~~ shall assist the board when necessary by providing resources and
22 guidance.

23

24 SECTION 13. Arkansas Code § 2-10-104(a)(5) is repealed.

25 ~~(5) By December 31, 2007, provide a copy of the proposed plan~~
26 ~~determined in subdivision (a)(4) of this section to the Secretary of the~~
27 ~~Arkansas Agriculture Department and any other person or entity requesting a~~
28 ~~copy of the proposed plan;~~

29

30 SECTION 14. Arkansas Code § 2-10-104(c)(1), concerning the powers and
31 duties of the Arkansas Milk Stabilization Board, is amended to read as
32 follows:

33 (c)(1) Once reviewed by the Legislative Council, the ~~Arkansas~~
34 ~~Agriculture Department~~ Department of Agriculture shall implement the plan.

35

36 SECTION 15. Arkansas Code § 2-10-203(b)(1)(A), concerning the creation

1 of the Dairy Stabilization Grant, is amended to read as follows:

2 (b)(1)(A) If funds are available, the Secretary of the ~~Arkansas~~
3 ~~Agriculture Department~~ Department of Agriculture shall calculate monthly the
4 difference between the average monthly blend price of milk received by
5 Arkansas milk producers as estimated by the secretary and seventy percent
6 (70%) of the average monthly cost of producing milk in Missouri and Tennessee
7 as estimated by the United States Department of Agriculture.

8

9 SECTION 16. Arkansas Code § 2-10-204(a), concerning milk production
10 and quality incentives, is amended to read as follows:

11 (a) If funds are available, as an incentive to continue milk
12 production and to improve milk quality, the Secretary of the ~~Arkansas~~
13 ~~Agriculture Department~~ Department of Agriculture may pay a milk producer the
14 following incentive payments:

15 (1)(A) Fifty cents (50¢) per hundred weight of milk for each
16 hundred weight of milk produced above the milk producer's average annual milk
17 production.

18 (B) A milk producer's average annual milk production
19 specified under subdivision (a)(1)(A) of this section shall be calculated
20 over the two (2) years preceding the year of disbursement; and

21 (2) Fifty cents (50¢) per hundred weight of milk if the milk
22 contains a somatic cell count of less than four hundred thousand (400,000).

23

24 SECTION 17. Arkansas Code § 2-10-205 is amended to read as follows:
25 2-10-205. Rules.

26 The ~~Director~~ Secretary of the Department of Finance and Administration
27 and the Secretary of the ~~Arkansas Agriculture Department~~ Department of
28 Agriculture shall adopt rules to implement this subchapter.

29

30 SECTION 18. Arkansas Code § 2-15-406 is amended to read as follows:
31 2-15-406. State Plant Board – Reports.

32 The State Plant Board may report to the ~~Governor and to the Arkansas~~
33 ~~Agriculture Department~~ Department of Agriculture concerning industrial hemp
34 policies and practices that may result in the proper legal growing,
35 management, use, and marketing of the state's potential industrial hemp
36 industry, including without limitation:

- 1 (1) Federal laws and regulatory constraints;
- 2 (2) The economic and financial feasibility of an industrial hemp
3 market in Arkansas;
- 4 (3) Arkansas businesses that might use industrial hemp;
- 5 (4) Examination of research on industrial hemp production and
6 use;
- 7 (5) The potential for globally marketing Arkansas industrial
8 hemp;
- 9 (6) A feasibility study of private funding for the Arkansas
10 industrial hemp research program;
- 11 (7) Enforcement concerns;
- 12 (8) Statutory and regulatory schemes for growing of industrial
13 hemp by private producers; and
- 14 (9) Technical support and education about industrial hemp.

15
16 SECTION 19. Arkansas Code § 2-16-207(c) and (d), concerning powers and
17 duties of the State Plant Board, are amended to read as follows:

18 (c)(1) The board shall make rules for carrying out the provisions and
19 requirements of this subchapter, including rules under which ~~its~~ the
20 inspectors and other employees of the Department of Agriculture shall:

21 (A) Inspect places, plants and plant products, and things
22 and substances used or connected herewith;

23 (B) Investigate, control, eradicate, and prevent the
24 dissemination of insect pests, diseases, and noxious weeds; and

25 (C) Supervise or cause the treatment, cutting, and
26 destruction of infected or infested plants and plant products.

27 (2) For the purpose of preventing fraud and misrepresentation,
28 the board shall make rules governing the transportation, distribution, or
29 sale of sorghum seed, hybrid corn seed, and other seeds intended for
30 planting.

31 (d) For the purpose of carrying out the provisions and requirements of
32 this subchapter, of the rules made, and notices given pursuant thereto, the
33 board and ~~its~~ the inspectors and employees of the Department of Agriculture
34 shall have power to enter into or upon any place and to open any bundle,
35 package, or other container of plants or plant products.

36

1 SECTION 20. Arkansas Code § 2-16-208 is amended to read as follows:

2 2-16-208. Director of board.

3 ~~(a) For the purpose of carrying out the provisions of this subchapter,~~
4 ~~the State Plant Board shall employ, prescribe the duties of, and fix the~~
5 ~~compensation for a Director of the State Plant Board. With the approval of~~
6 ~~the board, the director may employ such inspectors or other employees as may~~
7 ~~be required and may incur such expenses as may be necessary within the limits~~
8 ~~of the appropriation made by law.~~

9 ~~(b)(a)(1) The director~~ Director of the State Plant Board shall be
10 appointed by the ~~board~~ State Plant Board with the approval of the Governor
11 and shall serve at the pleasure of the Governor.

12 (2) The director shall report to the Secretary of the Department
13 of Agriculture.

14 ~~(c)(1) The director shall furnish a bond of five thousand dollars~~
15 ~~(\$5,000) with sufficient sureties approved by the board for the faithful~~
16 ~~performance of his or her duties of this subchapter and the rules of the~~
17 ~~board.~~

18 ~~(2) Any person suffering damage by reason of the acts or~~
19 ~~omissions of the chief inspector or his or her duly authorized deputies or~~
20 ~~employees may bring action on the bond for damages.~~

21 ~~(3) The board may require to indemnify the director that similar~~
22 ~~bonds shall be furnished by deputies, inspectors, or employees.~~

23 ~~(d) The board shall cooperate with other departments, boards, and~~
24 ~~officers of this state and of the United States as far as possible.~~

25 (b)(1) The Department of Agriculture may delegate to the director any
26 of the powers or duties required to administer the:

27 (A) Statutory duties of the State Plant Board; and

28 (B) Rules, orders, or directives promulgated or issued by
29 the board.

30 (2) The director may exercise the powers and duties delegated to
31 him or her under subdivision (b)(1) of this section in the name of the State
32 Plant Board and the Department of Agriculture.

33
34 SECTION 21. Arkansas Code § 2-16-209(d), concerning the transportation
35 of insect pests and duties of the State Plant Board, is amended to read as
36 follows:

1 (d) Inspectors ~~of the board~~ carrying out the provisions of this
2 subchapter on issuance of a written notice may cause to be held or to be sent
3 out of the state or to be destroyed any plant, plant product, or other
4 substance which has been brought into or is being transported within the
5 state in violation of any state or federal law, rule, or regulation. They may
6 stop and detain for inspection any person, car, or other carrier.

7
8 SECTION 22. Arkansas Code § 2-16-306(b), concerning the enforcement
9 authority of the State Plant Board, is amended to read as follows:

10 (b) For the purposes of carrying out the requirements of this
11 subchapter, and the rules made and notices given pursuant thereto, the ~~board~~
12 ~~and its~~ inspectors and employees of the Department of Agriculture shall have
13 the right to enter into or upon any place and for purpose of inspection to
14 open any bundle, package, or other container of plants, plant products,
15 articles, or substances.

16
17 SECTION 23. Arkansas Code § 2-16-306(c)(1), concerning the enforcement
18 authority of the State Plant Board, is amended to read as follows:

19 (c)(1) In the enforcement of this subchapter and of the rules made
20 pursuant thereto, the ~~board~~ State Plant Board may summon witnesses; require
21 the production of any books, papers, or documents it deems material;
22 administer oaths; and hear witnesses.

23
24 SECTION 24. Arkansas Code § 2-16-405(b), concerning the administration
25 of pesticide control by the State Plant Board, is amended to read as follows:

26 (b) The administrative functions vested in the board by this
27 subchapter shall be considered to be delegated to the employees of the ~~board~~
28 Department of Agriculture or ~~its~~ the department's authorized representatives
29 on behalf of the State Plant Board.

30
31 SECTION 25. Arkansas Code § 2-16-702(a), concerning members of the
32 Arkansas Fire Ant Advisory Board, is amended to read as follows:

33 (a) The Arkansas Fire Ant Advisory Board shall be composed of the Vice
34 President for Agriculture of the University of Arkansas ~~System~~, the head of
35 the Department of Entomology at the University of Arkansas at Fayetteville or
36 his or her representative, the ~~Director of the State Plant Board~~ Secretary of

1 the Department of Agriculture or his or her representative, and the following
2 to be appointed from an ant-infested area by the ~~chair~~ Chair of the Arkansas
3 Fire Ant Advisory Board:

4 (1) A representative of an Arkansas environmental interest
5 group;

6 (2) A county extension agent or a member of the general public;

7 (3) A representative of the farm or ranch industry;

8 (4) A representative of the horticultural or nursery industry;

9 and

10 (5) A representative of the Arkansas Pest Control Association.

11
12 SECTION 26. Arkansas Code § 2-18-104 is amended to read as follows:

13 2-18-104. Rules.

14 The State Plant Board:

15 (1) Shall promulgate all rules necessary to carry into effect
16 the purpose of this chapter, which is to provide supplies of high-grade seed,
17 true to name and free from disease, for planting purposes; and

18 (2) Shall make rules to protect the interest of breeders who
19 have developed high-quality strains of seed; ~~and~~

20 ~~(3) May appoint or may authorize the Director of the State Plant~~
21 ~~Board to appoint such deputies as shall be necessary to carry into effect the~~
22 ~~purpose of this chapter.~~

23
24 SECTION 27. Arkansas Code § 2-22-104 is amended to read as follows:

25 2-22-104. Administration.

26 The State Plant Board is vested with the authority to carry out the
27 provisions of this chapter through the ~~Director of the State Plant Board,~~
28 ~~the State Apiarist, section head, and deputies~~ Department of Agriculture.

29
30 SECTION 28. Arkansas Code § 2-23-104(a)(1)(A), concerning the members
31 of the arbitration committee for the arbitration of defective seed claims, is
32 amended to read as follows:

33 (a)(1)(A) The ~~Director of the State Plant Board~~ Secretary of the
34 Department of Agriculture shall appoint an arbitration committee composed of
35 six (6) members and six (6) alternate members with one (1) member and one (1)
36 alternate to be appointed upon the recommendation of each of the following:

- 1 (i) The President of the Arkansas Seed Growers
2 Association;
3 (ii) The President of the Arkansas Seed Dealers
4 Association;
5 (iii) The President of the Arkansas Farm Bureau
6 Federation; and
7 (iv) The President of the Agricultural Council of
8 Arkansas.

9

10 SECTION 29. Arkansas Code § 2-23-104(b)(1), concerning the members of
11 the arbitration committee for the arbitration of defective seed claims, is
12 amended to read as follows:

13 (b)(1) The committee shall elect a chairperson from ~~its~~ the
14 committee's membership and the ~~Director of the State Plant Board~~ Secretary of
15 the Department of Agriculture, or his or her designee, shall serve as
16 secretary of the committee and shall not vote.

17

18 SECTION 30. Arkansas Code § 2-32-501(c), concerning administrative
19 penalties imposed by the Arkansas Livestock and Poultry Commission, is
20 amended to read as follows:

21 (c) The commission ~~or the Deputy Director of the Arkansas Livestock~~
22 ~~and Poultry Commission~~ or the commission's designee may issue subpoenas.

23

24 SECTION 31. Arkansas Code § 2-33-104 is amended to read as follows:

25 2-33-104. ~~Deputy director~~ Director.

26 (a)(1) The Deputy Director of the Arkansas Livestock and Poultry
27 Commission shall be appointed by the Secretary of the Arkansas Agriculture
28 Department Governor and shall serve at the pleasure of the Governor.

29 (2) The director shall report to the Secretary of the Department
30 of Agriculture.

31 (b)(1) The secretary may delegate to the director any of the powers or
32 duties required to administer the:

33 (A) Statutory duties of the Arkansas Livestock and Poultry
34 Commission; and

35 (B) Rules, orders, or directives promulgated or issued by
36 the commission.

1 (2) The director may exercise the powers and duties delegated to
2 him or her under subdivision (b)(1) of this section in the name of the
3 Arkansas Livestock and Poultry Commission and of the Department of
4 Agriculture.

5
6 SECTION 32. Arkansas Code § 2-33-105 is amended to read as follows:

7 2-33-105. State Veterinarian.

8 ~~(a)(1) Subject to the approval of the Arkansas Livestock and Poultry~~
9 ~~Commission, the Director of the Arkansas Livestock and Poultry Commission~~ The
10 Secretary of the Department of Agriculture shall appoint employ a State
11 Veterinarian.

12 ~~(2)(b)~~ (b) The State Veterinarian shall be a person who has been
13 granted the degree of Doctor of Veterinary Medicine and holds a current
14 license issued by the Veterinary Medical Examining Board of this state.

15 ~~(b)(1) The State Veterinarian shall perform such duties as shall from~~
16 ~~time to time be prescribed by the commission and the Secretary of the~~
17 ~~Arkansas Agriculture Department.~~

18 ~~(2) The commission may, by resolution duly adopted, delegate to~~
19 ~~the State Veterinarian any of the powers or duties vested in or imposed upon~~
20 ~~it by law, and these delegated powers or duties may be exercised by the State~~
21 ~~Veterinarian in the name of the commission.~~

22
23 SECTION 33. Arkansas Code § 2-33-111, concerning livestock and poultry
24 diagnostic services, is amended to add an additional subsection to read as
25 follows:

26 (d)(1) The Arkansas Livestock and Poultry Commission Veterinary
27 Diagnostic Laboratory shall be administered by the Department of Agriculture.

28 (2)(A) The Department of Agriculture may by rule assign
29 additional laboratory duties and functions to the Arkansas Livestock and
30 Poultry Commission Veterinary Diagnostic Laboratory.

31 (B) Additional laboratory duties and functions assigned
32 under subdivision (d)(2)(A) of this section shall be funded by the Department
33 of Agriculture and not by the special revenues established in subsection (b)
34 of this section.

35
36 SECTION 34. Arkansas Code § 2-33-115(a), concerning fees assessed by

1 the Arkansas Livestock and Poultry Commission, is amended to read as follows:

2 (a) The following fees shall be assessed by the Arkansas Livestock and
3 Poultry Commission:

4 (1) A fee of two dollars (\$2.00) per head collected on all
5 horses sold in the state; and

6 (2) On each state, district, and county fair held in the State
7 of Arkansas there shall be levied a four and five-tenths percent (4.5%)
8 surcharge on each paid admission to the fairs, and such levy shall be
9 remitted to the Treasurer of State, who shall deposit the revenues in the
10 State Treasury to the credit of the Livestock and Poultry Special Revenue
11 Fund or the Livestock and Poultry Commission Disease and Pest Control Fund as
12 determined by the Secretary of the ~~Arkansas Agriculture Department~~ Department
13 of Agriculture.

14

15 SECTION 35. Arkansas Code § 2-33-308 is amended to read as follows:

16 2-33-308. Overtime compensation.

17 The ~~Arkansas Livestock and Poultry Commission's Poultry and Egg Grading~~
18 ~~Program~~ Department of Agriculture is hereby authorized to pay ordinary,
19 customary, and necessary overtime compensation in accordance with rules
20 promulgated by the Chief Fiscal Officer of the State to those employees,
21 including egg and poultry grader supervisors, engaged in the inspection and
22 grading of eggs and poultry products under the Arkansas Livestock and Poultry
23 Commission's Poultry and Egg Grading Program.

24

25 SECTION 36. Arkansas Code § 2-34-205(b) and (c), concerning custody of
26 county brand records, are amended to read as follows:

27 (b) The ~~commission~~ Department of Agriculture shall collect all county
28 brand record books and place them in its office and preserve them as public
29 records on behalf of the commission.

30 (c) The ~~commission~~ department shall furnish a record of any brand
31 record in the county record books to any person for a reasonable fee
32 determined by the ~~commission~~ department to offset the costs of furnishing the
33 record.

34

35 SECTION 37. Arkansas Code § 2-34-210(b), concerning the sale of the
36 State Brand Book, is amended to read as follows:

1 (b) A supplement to the State Brand Book shall be sold to the public
2 for a reasonable fee determined by the ~~Deputy Director of the Arkansas~~
3 ~~Livestock and Poultry Commission~~ Department of Agriculture to offset the
4 costs of producing the supplement.

5
6 SECTION 38. The introductory language to Arkansas Code § 4-18-311,
7 concerning the creation of the State Division of Weights and Measures, is
8 amended to read as follows:

9 There is hereby created a State Division of Weights and Measures
10 located for administrative purposes within the Arkansas Bureau of Standards
11 of the State Plant Board administered by the Department of Agriculture. The
12 division is charged with, but not limited to, performing the following
13 functions on behalf of the citizens of the state:

14
15 SECTION 39. Arkansas Code § 4-18-312(g), concerning the powers and
16 duties of the State Plant Board, is amended to read as follows:

17 (g) Delegate to ~~appropriate personnel~~ the Department of
18 Agriculture any of these responsibilities for the proper administration of
19 the board.

20
21 SECTION 40. Arkansas Code § 4-18-312(p), concerning the powers and
22 duties of the State Plant Board, is amended to read as follows:

23 (p) Provide for the training of weights and measures personnel,
24 and may also establish minimum training and performance requirements which
25 shall then be met by all weights and measures personnel, whether county,
26 municipal, or state. The ~~Director of the~~ State Plant Board may adopt the
27 training standards of the National Conference on Weights and Measures'
28 National Training Program.

29
30 SECTION 41. Arkansas Code § 4-18-313 is amended to read as follows:

31 4-18-313. Special police powers.

32 When necessary for the enforcement of this subchapter or regulations
33 promulgated pursuant thereto, ~~the State Plant Board is~~ personnel designated
34 by the Department of Agriculture on behalf of the Arkansas Bureau of
35 Standards are:

36 (a) Authorized to enter any commercial premises during normal

1 business hours, except that in the event such premises are not open to the
2 public, he/she shall first present his/her credentials and obtain consent
3 before making entry thereto, unless a search warrant has previously been
4 obtained.

5 (b) Empowered to issue stop-use, hold, and removal orders with
6 respect to any weights and measures commercially used, stop-sale, hold, and
7 removal orders with respect to any packaged commodities or bulk commodities
8 kept, offered, or exposed for sale.

9 (c) Empowered to seize, for use as evidence, without formal
10 warrant, any incorrect or unapproved weight, measure, package, or commodity
11 found to be used, retained, offered, or exposed for sale or sold in violation
12 of the provisions of this subchapter or regulations promulgated pursuant
13 thereto.

14 (d) Empowered to stop any commercial vehicle and, after
15 presentation of his credentials, inspect the contents, require that the
16 person in charge of that vehicle produce any documents in his possession
17 concerning the contents, and require him to proceed with the vehicle to some
18 specified place for inspection.

19 (e) With respect to the enforcement of this subchapter, the
20 ~~board~~ department is hereby vested with special police powers, and is
21 authorized to arrest, with warrant, any violator of this subchapter.

22

23 SECTION 42. Arkansas Code § 4-18-325 is amended to read as follows:
24 4-18-325. Restraining order and injunction.

25 The ~~Director of the State Plant Board~~ or its designee is authorized to
26 apply to any court of competent jurisdiction for a restraining order, or a
27 temporary or permanent injunction, restraining any person from violating any
28 provision of this subchapter.

29

30 SECTION 43. Arkansas Code § 4-18-329(a), concerning the fees for tests
31 and inspections by the Arkansas Bureau of Standards of the State Plant Board,
32 is amended to read as follows:

33 (a) The Arkansas Bureau of Standards of the State Plant Board
34 administered through the Department of Agriculture shall collect charges as
35 provided in this section for the testing and certification of testing
36 apparatus and for testing and inspection made ~~pursuant to~~ under this chapter.

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SECTION 44. Arkansas Code § 4-18-334(a), concerning the Director of the Arkansas Bureau of Standards, is amended to read as follows:

(a)(1) The Director of the Arkansas Bureau of Standards is appointed by the Governor and shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Agriculture.

SECTION 45. Arkansas Code § 4-18-334(c), concerning the Director of the Arkansas Bureau of Standards, is repealed.

~~(c) The director may establish divisions or offices within the Arkansas Bureau of Standards as he or she may deem necessary for the administration of the duties of the bureau.~~

SECTION 46. Arkansas Code § 4-18-334(d)(4), concerning the Director of the Arkansas Bureau of Standards, is amended to read as follows:

(4) Make a report to the ~~Governor~~ Secretary of the Department of Agriculture on the activities of his or her office at the end of each fiscal year.

SECTION 47. Arkansas Code § 4-18-335 is repealed.

~~4-18-335. Staff and equipment of the Arkansas Bureau of Standards.~~

~~(a) The Arkansas Bureau of Standards shall be composed of a deputy director, state investigators, and technical and clerical personnel of weights and measures sufficient to accomplish the intent of this subchapter.~~

~~(b) The powers and duties given to and imposed upon the Director of the Arkansas Bureau of Standards by this subchapter are also given to and imposed upon the deputy director and investigators when acting at the direction of the director.~~

SECTION 48. Arkansas Code § 8-7-1204(b), concerning the Abandoned Pesticide Advisory Board, is amended to read as follows:

(b) The Abandoned Pesticide Advisory Board shall be composed of up to six (6) members:

(1) One (1) member shall be a representative from the Arkansas Farm Bureau Federation;

1 (2) One (1) member shall be a representative from the Arkansas
2 Natural Resources Commission;

3 (3) One (1) member shall be a representative from the University
4 of Arkansas Cooperative Extension Service;

5 (4) One (1) member shall be a representative from the ~~Arkansas~~
6 ~~Department~~ Division of Environmental Quality;

7 (5) One (1) member may be a representative from the United
8 States Natural Resources Conservation Service; and

9 (6) One (1) member shall be a representative from the ~~State~~
10 ~~Plant Board~~ Department of Agriculture, who shall serve as the Chair of the
11 Abandoned Pesticide Advisory Board.
12

13 SECTION 49. Arkansas Code § 14-305-105(a) and (b), concerning the
14 application process and criteria for selection under the Arkansas Unpaved
15 Roads Program Act, are amended to read as follows:

16 (a)(1) After completing training in best management practices, a
17 county may submit an application to receive funding for an unpaved road
18 project to the ~~Rural Services Division of the Arkansas Economic Development~~
19 ~~Commission~~ Arkansas Natural Resources Commission.

20 (2) The ~~division~~ commission shall:

21 (A) Determine which of the proposed unpaved road projects
22 to fund based on the criteria and requirements stated in this chapter; and

23 (B) Create an advisory committee to assist the ~~division~~
24 commission in evaluating applications and determining which proposed unpaved
25 road projects to fund.

26 (b) A county applying for funding for an unpaved road project shall
27 submit an application to the ~~division~~ commission that includes the following:

28 (1) A brief description of the maintenance needs to be addressed
29 by the unpaved road project;

30 (2) A cost estimate for the unpaved road project;

31 (3) A proposed work schedule for the unpaved road project;

32 (4) The basis for successful completion of the unpaved road
33 project with citation to the relevant feature contained in subsection (c) of
34 this section;

35 (5) A plan for using best management practices;

36 (6) A description of the unpaved road project site, including

1 without limitation a site map; and

2 (7) Any other information requested by the ~~division~~ commission.

3
4 SECTION 50. Arkansas Code § 14-305-105(e), concerning the application
5 process and criteria for selection under the Arkansas Unpaved Roads Program
6 Act, is amended to read as follows:

7 (e) The ~~division~~ commission shall evaluate and prioritize each
8 proposed unpaved road project based on the characteristics of the road
9 contributing to erosion.

10
11 SECTION 51. Arkansas Code § 14-305-106(b) and (c), concerning the
12 funding of unpaved road projects under the Arkansas Unpaved Roads Program
13 Act, are amended to read as follows:

14 (b) The ~~Rural Services Division of the Arkansas Economic Development~~
15 ~~Commission~~ Arkansas Natural Resources Commission may award a grant to a
16 county using funds available in the Arkansas Unpaved Roads Program Fund for
17 up to fifty percent (50%) of the estimated total costs of a proposed unpaved
18 road project.

19 (c) At least four percent (4%) of the funding obtained from the
20 ~~division~~ commission under this chapter shall be used to evaluate and assess
21 the unpaved road project.

22
23 SECTION 52. Arkansas Code § 14-305-107(b) and (c), concerning the
24 completion of an unpaved road projects under the Arkansas Unpaved Roads
25 Program Act, are amended to read as follows:

26 (b)(1) If an unpaved road project that has been approved for a grant
27 is not completed within one (1) year of the award of the grant, the county
28 shall refund the full grant amount to the ~~Rural Services Division of the~~
29 ~~Arkansas Economic Development Commission~~ Arkansas Natural Resources
30 Commission.

31 (2) However, for good cause shown, the Director of the ~~Arkansas~~
32 ~~Economic Development Commission~~ Arkansas Natural Resources Commission may
33 allow one (1) extension for a county that is unable to complete its unpaved
34 road project within the period stated in subdivision (b)(1) of this section.

35 (c) A county shall:

36 (1) Comply with the standards set by the ~~division~~ commission for

1 the completion of an unpaved road project to ensure that the unpaved road
2 project is conducted in a manner that is not harmful to the state or the
3 environment; and

4 (2) Report on the progress of the unpaved road project in the
5 manner and at the times determined by the ~~division~~ commission.

6
7 SECTION 53. Arkansas Code § 14-305-108(3), concerning the funding of
8 unpaved road projects under the Arkansas Unpaved Roads Program Act, is
9 amended to read as follows:

10 (3) Allow inspection by the ~~Rural Services Division of the~~
11 ~~Arkansas Economic Development Commission~~ Arkansas Natural Resources
12 Commission of the records described in subdivisions (1) and (2) of this
13 section.

14
15 SECTION 54. Arkansas Code § 14-305-110 is amended to read as follows:
16 14-305-110. Rules.

17 The ~~Rural Services Division of the Arkansas Economic Development~~
18 ~~Commission~~ Arkansas Natural Resources Commission shall promulgate rules to
19 implement and administer this chapter, including without limitation rules
20 regarding:

21 (1) The application process;

22 (2) The creation and administration of an advisory committee to
23 assist the ~~division~~ commission in evaluating applications and making funding
24 determinations;

25 (3) The disbursement of grant funds;

26 (4) The reporting required by counties that receive grant funds
27 under this chapter;

28 (5) The evaluation and assessment of unpaved road projects
29 approved for grants;

30 (6) The expenses that are eligible for grant funds; and

31 (7) The standards a county is required to meet in completing an
32 unpaved road project.

33
34 SECTION 55. Arkansas Code § 15-4-3806 is amended to read as follows:
35 15-4-3806. Promotion.

36 (a) The ~~Arkansas Agriculture Department~~ Department of Agriculture may

1 use its internet resources to:

2 (1) Promote, create, and expand local farm and food economies in
3 this state;

4 (2) Maintain a list of local farm or food products and the
5 providers of local farm or food products; and

6 (3) Facilitate compliance with this subchapter.

7 (b)(1) The ~~Arkansas Agriculture Department~~ Department of Agriculture
8 shall establish a program coordinator position, which shall be responsible
9 for developing partnerships among vendors, agencies, and providers of local
10 farm or food products to support the goals of this subchapter.

11 (2) The program coordinator shall:

12 (A) Provide support and assistance to providers of local
13 farm or food products that wish to compete for a contract with an agency by:

14 (i) Assisting the provider of local farm or food
15 products in developing a business plan;

16 (ii) Working with distribution representatives; and

17 (iii) Using available resources, including without
18 limitation agencies and other public and private entities;

19 (B) Be a resource for agencies to use to assist in
20 tracking and reporting their progress in satisfying the procurement goals
21 stated in this subchapter;

22 (C) Be a liaison between agencies and providers of local
23 farm or food products to facilitate access to local farm or food products;

24 (D) Encourage and facilitate involvement and participation
25 in the Farm to School Program administered by the United States Department of
26 Agriculture by working with providers of local farm or food products,
27 vendors, and distributors to assess the need for and availability of local
28 farm and food products; and

29 (E) Cooperate with the ~~Arkansas Agriculture Department~~
30 Department of Agriculture and providers of local farm or food products to
31 promote, encourage, and increase participation in the Arkansas Grown program
32 administered by the ~~Arkansas Agriculture Department~~ Department of
33 Agriculture.

34

35 SECTION 56. Arkansas Code § 15-13-301(a), concerning the Arkansas
36 Alternative Fuels Development Program, is amended to read as follows:

1 (a) The Arkansas Alternative Fuels Development Program is established
2 and shall be developed and administered by the ~~Arkansas Agriculture~~
3 ~~Department~~ Department of Agriculture.

4
5 SECTION 57. Arkansas Code § 15-13-302(c), concerning the production
6 incentives for alternative fuels producers under the Arkansas Alternative
7 Fuels Development Program, is amended to read as follows:

8 (c) The ~~Arkansas Agriculture Department~~ Department of Agriculture
9 shall create a grant application process for alternative fuels producers for
10 capital improvements that includes:

11 (1) An application for a grant under this subsection that shall
12 include at a minimum:

13 (A) The expected gallonage production of alternative fuels
14 at the facility;

15 (B) A narrative description of the intended use of the
16 grant moneys; and

17 (C) Evidence sufficient to satisfy the department that the
18 applicant has the capacity to complete the proposed project;

19 (2) Instructions about the grant process;

20 (3) Scoring procedures to determine the award of the grants; and

21 (4) Other factors that the Secretary of the ~~Arkansas Agriculture~~
22 ~~Department~~ Department of Agriculture deems necessary.

23
24 SECTION 58. Arkansas Code § 15-13-303(b), concerning the production
25 incentives for feedstock processors under the Arkansas Alternative Fuels
26 Development Program, is amended to read as follows:

27 (b) The ~~Arkansas Agriculture Department~~ Department of Agriculture
28 shall create a grant application process for feedstock processors that shall
29 include:

30 (1) An application for a grant under this subchapter that shall
31 include at a minimum:

32 (A) A narrative description of the intended use of the
33 grant moneys; and

34 (B) Evidence sufficient to satisfy the department that the
35 applicant has the capacity to complete the proposed project;

36 (2) Instructions about the grant process;

1 (3) Scoring procedures to determine the award of the grants; and
2 (4) Other factors that the Secretary of the ~~Arkansas Agriculture~~
3 ~~Department~~ Department of Agriculture deems necessary.
4

5 SECTION 59. Arkansas Code § 15-13-304(b), concerning the distribution
6 incentives for alternative fuels distributors under the Arkansas Alternative
7 Fuels Development Program, is amended to read as follows:

8 (b) The ~~Arkansas Agriculture Department~~ Department of Agriculture
9 shall create a grant application process for alternative fuels distributors
10 that shall include:

11 (1) An application for a grant under this subchapter that shall
12 include at a minimum:

13 (A) A narrative description of the intended use of the
14 grant moneys; and

15 (B) Evidence sufficient to satisfy the department that the
16 provision of a grant to the alternative fuels distributor will improve the
17 statewide supply and distribution of alternative fuels and alternative fuels
18 mixtures that are produced in Arkansas;

19 (2) Instructions about the grant process;

20 (3) Scoring procedures to determine the award of the grants; and

21 (4) Other factors that the Secretary of the ~~Arkansas Agriculture~~
22 ~~Department~~ Department of Agriculture deems necessary.
23

24 SECTION 60. Arkansas Code § 15-13-305 is amended to read as follows:
25 15-13-305. Rules.

26 After consulting the Arkansas Energy Office of the Division of
27 Environmental Quality, the ~~Arkansas Agriculture Department~~ Department of
28 Agriculture shall promulgate rules to implement and administer this
29 subchapter.
30

31 SECTION 61. Arkansas Code § 15-13-306(c), concerning rebate incentives
32 for modification of motor vehicles under the Arkansas Alternative Fuels
33 Development Program, is amended to read as follows:

34 (c) The ~~Arkansas Agriculture Department~~ Department of Agriculture
35 shall create a rebate application process for a public entity, a company, an
36 organization, or an affiliate of a public entity, a company, or an

1 organization to obtain a rebate that shall include:

2 (1) An application for a rebate under this subchapter that shall
3 include:

4 (A) An affidavit or proof that the motor vehicle is
5 registered in Arkansas or will be registered in Arkansas upon acquisition of
6 the motor vehicle; and

7 (B) Evidence of the following:

8 (i) The purchase of a dedicated compressed natural
9 gas motor vehicle or a dedicated propane gas motor vehicle and the
10 differential costs; or

11 (ii) The differential costs, incremental costs, or
12 the costs associated with the conversion of a diesel-powered motor vehicle or
13 gasoline-powered motor vehicle into a dedicated compressed natural gas motor
14 vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas
15 motor vehicle, or bi-fuel propane gas motor vehicle;

16 (2) Instructions about the rebate process;

17 (3) Scoring procedures to determine the award of the rebates;

18 and

19 (4) Other factors that the Secretary of the ~~Arkansas Agriculture~~
20 ~~Department~~ Department of Agriculture deems necessary.

21

22 SECTION 62. Arkansas Code § 15-20-204 is amended to read as follows:

23 15-20-204. Organization.

24 The Arkansas Natural Resources Commission shall from time to time
25 select from its membership a chair and a vice chair. ~~The Executive Director~~
26 ~~of the Arkansas Natural Resources Commission, hereinafter provided for, shall~~
27 ~~be ex officio secretary of the commission but shall have no vote on matters~~
28 ~~coming before it.~~

29

30 SECTION 63. Arkansas Code § 15-20-205 is amended to read as follows:

31 15-20-205. ~~Executive director~~ Director.

32 (a)(1) The ~~Executive~~ Director of the Arkansas Natural Resources
33 Commission shall be appointed by and serve at the pleasure of the Governor.

34 (2) The director shall report to the Secretary of the Department
35 of Agriculture.

36 (b) The ~~executive director~~ Department of Agriculture shall be charged

1 with the duty of administering the provisions of this subchapter and the
2 rules, ~~regulations,~~ and orders established thereunder by the Arkansas Natural
3 Resources Commission.

4 (c) The Arkansas Natural Resources Commission, by resolution duly
5 adopted, may delegate to the ~~executive director~~ Department of Agriculture any
6 of the powers or duties vested in or imposed upon ~~it~~ the commission by this
7 subchapter. These delegated powers and duties may be exercised by the
8 ~~executive director~~ Department of Agriculture or the department's designee in
9 the name of the commission.

10 (d) The ~~executive director~~ Secretary of the Department of Agriculture
11 shall be custodian of all property held in the name of the commission and
12 shall be ex officio the disbursing agent of all funds available for ~~its~~
13 by the commission.

14 ~~(e)(1) The executive director shall furnish bond to the state, with~~
15 ~~corporate surety thereon, in the penal sum of ten thousand dollars (\$10,000),~~
16 ~~conditioned that he or she will faithfully perform his or her duties of~~
17 ~~employment and properly account for all funds received and disbursed by him~~
18 ~~or her.~~

19 ~~(2) An additional disbursing agent's bond shall not be required~~
20 ~~of the executive director.~~

21 ~~(3) The bond so furnished shall be filed with the Secretary of~~
22 ~~State and an executed counterpart thereof shall be filed with the Auditor of~~
23 ~~State.~~

24
25 SECTION 64. Arkansas Code § 15-20-207(1)(B), concerning the powers and
26 duties of the Arkansas Natural Resources Commission, is amended to read as
27 follows:

28 (B) In order that ~~it~~ the commission may perform its
29 functions more effectively, the ~~commission~~ Department of Agriculture shall
30 employ a Water Resources Engineer, and the person so employed, at the time of
31 his or her employment and during the continuance thereof, shall hold a
32 certificate of registration granted by the State Board of Licensure for
33 Professional Engineers and Professional Surveyors;

34
35 SECTION 65. Arkansas Code § 15-20-207(6), concerning the powers and
36 duties of the Arkansas Natural Resources Commission, is amended to read as

1 follows:

2 (6)(A) Receive and expend any moneys arising from federal means,
3 grants, contributions, gratuities, reimbursements, or loans payable or
4 distributable to the State of Arkansas by the United States or any of its
5 agencies or instrumentalities ~~pursuant to~~ under any congressional act or rule
6 or regulation of such an agency or instrumentality now or hereafter enacted
7 or promulgated for or on account of any functions performable by the
8 commission.

9 (B)(i)(a) ~~It~~ The commission shall likewise receive any
10 contributions, grants, or gratuities donated by private persons,
11 associations, or corporations for or on account of any of the functions
12 aforesaid.

13 (b) All moneys so received shall be deposited
14 into the State Treasury unless provisions shall have otherwise been made by
15 the respective federal agencies, private persons, associations, or
16 corporations furnishing the funds.

17 (ii) However, ~~in the event the General Assembly~~
18 ~~shall fail if the General Assembly fails~~ to appropriate any such moneys for
19 the use of the Department of Agriculture to support the commission or in the
20 event the specified use of any such moneys ~~preclude its~~ precludes their
21 deposit into the State Treasury, the commission ~~is authorized and empowered~~
22 ~~to~~ may convert any such moneys to the Arkansas Water Development Fund, to be
23 used for the purposes for which granted, donated, or received or as otherwise
24 provided by this subchapter;

25

26 SECTION 66. Arkansas Code § 15-20-903(3), concerning the definition of
27 "executive director" under the Arkansas Poultry Feeding Operations
28 Registration Act, is repealed.

29 ~~(3) "Executive director" means the Executive Director of the~~
30 ~~Arkansas Natural Resources Commission;~~

31

32 SECTION 67. Arkansas Code § 15-20-904(a), concerning registration
33 under the Arkansas Poultry Feeding Operations Registration Act, is amended to
34 read as follows:

35 (a) The Arkansas Natural Resources Commission shall operate an annual
36 registration program, to be administered by the Department of Agriculture,

1 for the purpose of assembling and maintaining information on the number,
2 composition, and practices of poultry feeding operations in the state.

3
4 SECTION 68. Arkansas Code § 15-20-904(g), concerning registration
5 under the Arkansas Poultry Feeding Operations Registration Act, is amended to
6 read as follows:

7 (g) The commission may delegate portions of the annual registration
8 program for implementation to the ~~Executive Director of the Arkansas Natural~~
9 ~~Resources Commission~~ Department of Agriculture or conservation districts, or
10 both.

11
12 SECTION 69. Arkansas Code § 15-20-905(a), concerning the authority of
13 the Arkansas Natural Resources Commission for enforcement, is amended to read
14 as follows:

15 (a)(1) Agents of the ~~Arkansas Natural Resources Commission~~ Department
16 of Agriculture ~~shall have the power to~~ may enter on private property to
17 determine compliance with this subchapter.

18 (2)(A) Entry shall not occur without prior notification of the
19 owner, operator, or agent in charge of the property.

20 (B) Notice shall be given to the owner, operator, or agent
21 in charge of the property at least seventy-two (72) hours before entry.

22 (3) Documentation of biosecurity measures taken and biosecurity
23 certification received by an inspection agent of the ~~Arkansas Natural~~
24 ~~Resources Commission~~ Department of Agriculture or by a conservation district
25 officer, including a biosecurity log book, shall be available to the owner
26 upon request.

27 (4) Upon notice of disease outbreak by the ~~Arkansas Livestock~~
28 ~~and Poultry Commission~~ Department of Agriculture, inspection under this
29 subchapter shall be automatically suspended until notification by the
30 ~~Arkansas Livestock and Poultry Commission~~ Department of Agriculture that it
31 is safe to resume inspections.

32
33 SECTION 70. Arkansas Code § 15-20-1003(3), concerning the definition
34 of "executive director" under the Arkansas Soil Nutrient Management Planner
35 and Applicator Certification Act, is repealed.

36 ~~(3) "Executive director" means the Executive Director of the~~

1 ~~Arkansas Natural Resources Commission;~~

2
3 SECTION 71. Arkansas Code § 15-20-1004(c)(4), concerning the nutrient
4 planner program, is amended to read as follows:

5 (4) Provide for the performance of other duties and the exercise
6 of other powers by the ~~Executive Director of the Arkansas Natural Resources~~
7 ~~Commission~~ Department of Agriculture as may be necessary to provide for the
8 training and certification of a person preparing nutrient management plans;
9 and

10
11 SECTION 72. Arkansas Code § 15-20-1005(c)(4), concerning the nutrient
12 applicator program, is amended to read as follows:

13 (4) Provide for the performance of other duties and the exercise
14 of other powers by the ~~Executive Director of the Arkansas Natural Resources~~
15 ~~Commission~~ Department of Agriculture as may be necessary to provide for the
16 training and certification of a person making nutrient application.

17
18 SECTION 73. Arkansas Code § 15-20-1008(b), concerning administrative
19 penalties under the Arkansas Soil Nutrient Management Planner and Applicator
20 Certification Act, is amended to read as follows:

21 (b) The commission or ~~the Executive Director of the Arkansas Natural~~
22 ~~Resources Commission~~ the commission's designee may issue subpoenas under §
23 15-22-208.

24
25 SECTION 74. Arkansas Code § 15-20-1103(5), concerning the definition
26 of "executive director" under the Arkansas Soil Nutrient Application and
27 Poultry Litter Utilization Act, is repealed.

28 ~~(5) "Executive director" means the Executive Director of the~~
29 ~~Arkansas Natural Resources Commission;~~

30
31 SECTION 75. Arkansas Code § 15-20-1107(a)(2), concerning the nutrient
32 management plan, is amended to read as follows:

33 (2) The person requesting a nutrient management plan may appeal
34 the nutrient management plan's disapproval or any of the nutrient management
35 plan's provisions to the ~~Executive Director of the Arkansas Natural Resources~~
36 ~~Commission.~~

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SECTION 76. Arkansas Code § 15-20-1108(a)(2), concerning the poultry litter management plan, is amended to read as follows:

(2) The person requesting a poultry litter management plan may appeal the poultry litter management plan's disapproval or any of the poultry litter management plan's provisions to the ~~Executive Director of the~~ Arkansas Natural Resources Commission.

SECTION 77. Arkansas Code § 15-20-1110(b), concerning the litter utilization committee, is amended to read as follows:

(b) The ~~Executive Director of the~~ Arkansas Natural Resources Commission shall appoint a committee composed of poultry feeding operators, ~~commission~~ Department of Agriculture staff, and other persons knowledgeable in litter management.

SECTION 78. Arkansas Code § 15-20-1111(b), concerning implementation of the Arkansas Soil Nutrient Application and Poultry Litter Utilization Act, is amended to read as follows:

(b) The commission may delegate portions of the program for implementation to the ~~Executive Director of the Arkansas Natural Resources Commission~~ Department of Agriculture or conservation districts, or both.

SECTION 79. Arkansas Code § 15-20-1112(a), concerning enforcement of the Arkansas Soil Nutrient Application and Poultry Litter Utilization Act, is amended to read as follows:

(a)(1) Agents of the ~~Arkansas Natural Resources Commission~~ Department of Agriculture or a conservation district may enter on private property to determine compliance with this subchapter.

(2)(A) Entry shall not occur without prior notification of the owner.

(B) Notice shall be given to the owner, operator, or agent in charge of the property at least seventy-two (72) hours before entry.

(3) Documentation of biosecurity measures taken and biosecurity certification received by an inspection agent of the ~~Arkansas Natural Resources Commission~~ Department of Agriculture or by a conservation district officer, including a biosecurity log book, shall be available to the owner

1 upon request.

2 (4) Upon notice of disease outbreak by the ~~Arkansas Livestock~~
3 ~~and Poultry Commission~~ Department of Agriculture, inspection under this
4 subchapter shall be automatically suspended until notification by the
5 ~~Arkansas Livestock and Poultry Commission~~ Department of Agriculture that it
6 is safe to resume inspections.

7

8 SECTION 80. Arkansas Code § 15-20-1314, concerning the powers and
9 duties of the Arkansas Natural Resources Commission, is amended to add an
10 additional subsection to read as follows:

11 (b) The Arkansas Natural Resources Commission may accomplish the
12 purposes of this subchapter through the delegation of any administrative
13 functions to the Department of Agriculture.

14

15 SECTION 81. Arkansas Code § 15-22-207 is amended to read as follows:
16 15-22-207. Administration of oath to witnesses.

17 Any member of the Arkansas Natural Resources Commission, ~~or the~~
18 ~~Executive Director of the Arkansas Natural Resources Commission or attorney~~
19 the commission's designee, shall have power to ~~may~~ administer an oath to any
20 witness in any hearing, investigation, or proceeding under the provisions of
21 this subchapter.

22

23 SECTION 82. Arkansas Code § 15-22-1003(4), concerning the definition
24 of "executive director" under the Arkansas Wetlands Mitigation Bank Act, is
25 repealed.

26 ~~(4) "Executive director" means the Executive Director of the~~
27 ~~Arkansas Natural Resources Commission;~~

28

29 SECTION 83. Arkansas Code § 15-22-1003(7), concerning the definition
30 of "Wetlands Technical Advisory Committee" under the Arkansas Wetlands
31 Mitigation Bank Act, is amended to read as follows:

32 (7) "Wetlands Technical Advisory Committee" ~~is~~ means a committee
33 made up of the directors or their designees of:

34 (A) ~~The Arkansas Forestry Commission;~~

35 ~~(B)~~ The Arkansas State Game and Fish Commission;

36 ~~(C)~~ (B) The Arkansas Department of Transportation;

1 ~~(D)~~(C) The ~~Department~~ Division of Arkansas Heritage;
2 ~~(E)~~(D) The ~~Arkansas Department~~ Division of Environmental
3 Quality; and
4 ~~(F)~~(E) Two (2) public members with expertise in aquatic
5 resources ecology appointed by the Arkansas Natural Resources Commission.
6

7 SECTION 84. Arkansas Code § 15-22-1004 is amended to read as follows:
8 15-22-1004. Mitigation banks – Acquisition and protection —~~Powers of~~
9 ~~the executive director.~~

10 ~~In consultation with the Arkansas Natural Resources Commission and the~~
11 ~~Wetlands Technical Advisory Committee, the Executive Director of the Arkansas~~
12 ~~Natural Resources Commission~~ The Arkansas Natural Resources Commission or
13 the commission's designee, in consultation with the Wetlands Technical
14 Advisory Committee, may:

15 (1) Set a sales price for credits in the mitigation bank on
16 behalf of the commission;

17 (2) Acquire or accept title, including easements, from willing
18 sellers or donors to approved lands, in the name of the commission, suitable
19 for use in mitigation banks;

20 (3) Pay costs incurred for alterations needed to create or
21 restore aquatic resources areas for purposes of carrying out the provisions
22 of this subchapter;

23 (4) Authorize payment of administrative, research, or scientific
24 monitoring expenses of the commission in carrying out the provisions of this
25 subchapter;

26 (5) Receive funds from whatever source for the voluntary
27 acquisition of a mitigation bank and interests therein;

28 (6) Enter into contracts with state and federal agencies,
29 nonprofit corporations, or other persons for the management of mitigation
30 bank properties; and

31 (7)(A) Upon satisfactory establishment of a functioning aquatic
32 resources site, convey mitigation bank properties to other appropriate state
33 agencies for management.

34 (B) The commission shall reserve such interest in the
35 mitigation bank property as necessary to protect the aquatic resources
36 function and values.

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SECTION 85. Arkansas Code § 15-22-1005(a), concerning program criteria for mitigation banks, is amended to read as follows:

(a) In accordance with the provisions of this subchapter, upon the approval of the Arkansas Natural Resources Commission, the ~~Executive Director of the Arkansas Natural Resources Commission~~ Department of Agriculture shall initiate and implement a program for mitigation banks.

SECTION 86. Arkansas Code § 15-22-1007 is amended to read as follows:
15-22-1007. Monitoring activities in mitigation banks – Reports.

(a) The ~~Executive Director of the~~ Arkansas Natural Resources Commission shall maintain a record of actions for each mitigation bank and conduct monitoring of mitigation banks with moneys set aside for that purpose in the Arkansas Water Development Fund.

(b) The ~~executive director~~ commission shall provide annual reports to the ~~Arkansas Natural Resources Commission and the~~ Wetlands Technical Advisory Committee of moneys spent and received for each mitigation bank.

SECTION 87. Arkansas Code § 15-22-1009 is amended to read as follows:
15-22-1009. ~~Executive director to consult and cooperate~~ Consultation

and cooperation with other agencies and interested parties – State agencies to use mitigation bank.

(a) The provisions of this subchapter shall be carried out by the ~~Executive Director of the~~ Arkansas Natural Resources Commission in consultation with the Wetlands Technical Advisory Committee.

(b) All public agencies requiring permit action mitigation, when practicable, shall use mitigation banks created under this subchapter.

SECTION 88. Arkansas Code § 15-22-1012 is amended to read as follows:
15-22-1012. Use of funds.

The ~~Executive Director of the~~ Arkansas Natural Resources Commission may use the moneys in the Arkansas Water Development Fund for the following purposes:

(1) For the voluntary acquisition of land suitable for use in mitigation banks;

(2) To pay for costs incurred for alterations needed to create,

1 restore, or enhance aquatic resources areas for purposes of carrying out the
2 provisions of this subchapter;

3 (3) For payment of administrative, research, or scientific
4 monitoring expenses of the Arkansas Natural Resources Commission in carrying
5 out the provisions of this subchapter;

6 (4) To repay financial assistance received from state financial
7 assistance programs, including interest and applicable fees, used for the
8 purposes of carrying out the intent of this subchapter; and

9 (5) Any other purpose related to wetland, stream, deep water
10 aquatic habitat, or aquatic resources creation or restoration.

11

12 SECTION 89. Arkansas Code § 15-22-1304(a), concerning gubernatorial
13 approval required by the Internal Revenue Code, is amended to read as
14 follows:

15 (a) When gubernatorial approval is required by the provisions of the
16 Internal Revenue Code, 26 U.S.C. § 1 et seq., as amended, or any other
17 federal or state law, the Governor may approve the issuance of bonds by the
18 Arkansas Natural Resources Commission upon receipt of written request for
19 approval from the ~~Executive Director of the~~ Arkansas Natural Resources
20 Commission.

21

22 SECTION 90. Arkansas Code § 15-22-1307(a), concerning the execution of
23 bonds by the Arkansas Natural Resources Commission, is amended to read as
24 follows:

25 (a) The bonds shall be executed by manual or facsimile signature of
26 the Chair of the Arkansas Natural Resources Commission and the manual or
27 facsimile signature of ~~the Executive Director of the Arkansas Natural~~
28 ~~Resources Commission~~ or any other director or officer authorized to do so by
29 resolution of the ~~commission~~ Arkansas Natural Resources Commission.

30

31 SECTION 91. Arkansas Code § 15-23-503(1), concerning the commissioners
32 of the Red River Compact Commission, is amended to read as follows:

33 (1) The ~~Director of the Arkansas Natural Resources Commission~~
34 Secretary of the Department of Agriculture or such other state agency as may
35 hereafter succeed to the powers and responsibilities of the Arkansas Natural
36 Resources Commission; and

1
2 SECTION 92. Arkansas Code § 15-23-804(f), concerning the members of
3 the Ouachita River Commission, is amended to read as follows:

4 (f) Members of the Ouachita River Commission shall receive no pay for
5 their services, but whenever the General Assembly shall have appropriated
6 funds to the Ouachita River Waterways Project Trust Fund administered by the
7 Arkansas Natural Resources Commission through the Department of Agriculture,
8 they may, upon proper application to the Arkansas Natural Resources
9 Commission, be reimbursed for expenses in accordance with § 25-16-902.

10
11 SECTION 93. Arkansas Code § 15-31-104 is amended to read as follows:
12 15-31-104. State Forester.

13 ~~The State Forester shall:~~

14 ~~(1)(a) The State Forester shall be~~ Be employed by the Arkansas
15 Forestry Commission, with the approval of the Governor, and shall serve at
16 the pleasure of the Governor~~;~~.

17 (b) The State Forester shall report to the Secretary of the Department
18 of Agriculture.

19 (c)(1) The secretary may delegate to the State Forester any of the
20 powers or duties required to administer the:

21 (A) Statutory duties of the Arkansas Forestry Commission;
22 and

23 (B) Rules, orders, or directives promulgated or issued by
24 the commission.

25 (2) The State Forester may exercise the powers and duties
26 delegated to him or her under subdivision (b)(1) of this section in the name
27 of the Arkansas Forestry Commission and the Department of Agriculture.

28 ~~(2)(A) Administer the provisions of this chapter and the rules,~~
29 ~~regulations, and orders established under this chapter.~~

30 ~~(B)(i) The commission, by adopted resolution, may delegate~~
31 ~~to the State Forester any of the powers or duties vested in or imposed upon~~
32 ~~it by this chapter.~~

33 ~~(ii) Such delegated powers and duties may be~~
34 ~~exercised by the State Forester in the name of the commission;~~

35 (3) The commission may delegate to the Department of Agriculture
36 any of the powers or duties vested in or imposed upon the commission by law,

1 and these delegated powers or duties may be exercised by the secretary or his
2 or her designee.

3 (d) Be a person who The State Forester shall:

4 ~~(A)(1) Have earned at a minimum a bachelor's degree in forestry~~
5 ~~from an accredited, four-year program at an institution of higher education;~~
6 ~~and~~

7 ~~(B)(2) Have not less than three (3) years' practical~~
8 ~~administrative and field experience in forestry.†~~

9 ~~(4) Be custodian of all property held in the name of the~~
10 ~~commission and shall be, ex officio, the disbursing agent of all funds~~
11 ~~available for its use; and~~

12 ~~(5)(A) Furnish bond to the state, with a corporate surety~~
13 ~~thereon, in the penal sum of twenty five thousand dollars (\$25,000),~~
14 ~~conditioned that he or she will faithfully perform his or her duties of~~
15 ~~employment and properly account for all funds received and disbursed by him~~
16 ~~or her.~~

17 ~~(B) An additional disbursing agent's bond shall not be~~
18 ~~required of the State Forester.~~

19 ~~(C) The bond shall be filed with the Secretary of State~~
20 ~~and an executed counterpart thereof shall be filed with the Auditor of State.~~

21
22 SECTION 94. Arkansas Code § 15-31-105 is repealed.

23 ~~15-31-105. Personnel.~~

24 ~~(a) Subject to the approval of the Arkansas Forestry Commission, the~~
25 ~~State Forester shall employ such assistants and other personnel as are, in~~
26 ~~his or her opinion, necessary to properly administer the provisions of this~~
27 ~~chapter.~~

28 ~~(b)(1) Notwithstanding his or her primary responsibility, the State~~
29 ~~Forester may designate one (1) of his or her assistants to receive and~~
30 ~~disburse funds of the commission.~~

31 ~~(2)(A) The assistant so designated shall be required to furnish~~
32 ~~bond with a corporate surety thereon in an amount as determined by the State~~
33 ~~Forester.~~

34 ~~(B) This bond, together with bonds the State Forester~~
35 ~~requires of other employees, shall be filed in the offices of the commission.~~

36 ~~(C) The premiums on all bonds shall be paid by the~~

1 ~~commission.~~

2
3 SECTION 95. Arkansas Code § 15-31-106(a)(1), concerning the functions,
4 powers, and duties of the Arkansas Forestry Commission, is repealed.

5 ~~(1) Cooperate with the Secretary of Agriculture or the~~
6 ~~secretary's authorized agent, with the Dale Bumpers College of Agricultural,~~
7 ~~Food and Life Sciences and School of Forest Resources of the University of~~
8 ~~Arkansas, with the Arkansas Economic Development Council, with other state~~
9 ~~agencies, and with farmers, forest owners, and other residents and~~
10 ~~organizations of the state to achieve the mission of the Arkansas Forestry~~
11 ~~Commission;~~

12
13 SECTION 96. Arkansas Code § 15-31-106(a)(2), concerning the functions,
14 powers, and duties of the Arkansas Forestry Commission, is amended to read as
15 follows:

16 (2) Formulate and put into effect policies, plans, and
17 reasonable rules ~~and regulations~~ as may be necessary to ~~the accomplishment of~~
18 ~~the purpose stated in subdivision (a)(1) of this section~~ achieve the mission
19 of the Arkansas Forestry Commission;

20
21 SECTION 97. Arkansas Code § 15-31-106(a)(3), concerning the functions,
22 powers, and duties of the Arkansas Forestry Commission, is repealed.

23 ~~(3) Submit annually to the Governor a report of its~~
24 ~~expenditures, accomplishments, and plans for further work;~~

25
26 SECTION 98. Arkansas Code § 15-31-107 is repealed.

27 ~~15-31-107. Employment of relatives.~~

28 ~~(a) No employee of the Arkansas Forestry Commission shall be~~
29 ~~prohibited from supervising, working under the supervision of, or working~~
30 ~~with any person to whom he or she is related by affinity or consanguinity.~~

31 ~~(b) No employee of the commission who begins employment on or after~~
32 ~~July 1, 1989, shall supervise or work under the supervision of any person to~~
33 ~~whom he or she is related within the third degree of affinity or~~
34 ~~consanguinity.~~

35
36 SECTION 99. Arkansas Code § 15-31-110 is repealed.

1 ~~15-31-110. Uniform allowance.~~

2 ~~(a) The Arkansas Forestry Commission is authorized to establish a~~
3 ~~Uniform Allowance Program for certain staff and field employees.~~

4 ~~(b)(1) An initial maximum allowance of four hundred dollars (\$400) may~~
5 ~~be paid to those designated new employees during their first year of~~
6 ~~employment and after satisfactory completion of an initial probationary~~
7 ~~period of six (6) months.~~

8 ~~(2)(A) A maximum allowance of three hundred dollars (\$300) may~~
9 ~~be paid to those other designated employees for replacement or maintenance of~~
10 ~~uniforms.~~

11 ~~(B) Uniform allowance will be dependent upon available~~
12 ~~funds, not to exceed established maximums.~~

13 ~~(c)(1) The commission shall determine what is to constitute the~~
14 ~~commission uniform.~~

15 ~~(2) However, the uniform shall include a badge and~~
16 ~~identification card bearing the words "Arkansas Forestry Commission", a full-~~
17 ~~face picture of the person to whom the badge and identification card is~~
18 ~~issued, and such other information as the commission shall require.~~

19 ~~(3) All persons issued such a badge and identification card~~
20 ~~shall wear, carry, or display it at such times and places as shall be~~
21 ~~designated, as required by the commission.~~

22
23 SECTION 100. Arkansas Code § 15-31-112 is repealed.

24 ~~15-31-112. Enforcement of Poison Spring State Forest Regulations.~~

25 ~~(a)(1) It shall be the duty of the Arkansas Forestry Commission's law~~
26 ~~enforcement personnel to enforce the Poison Springs State Forest regulations~~
27 ~~promulgated by the commission pursuant to the Arkansas Administrative~~
28 ~~Procedure Act, § 25-15-201 et seq.~~

29 ~~(2) The commission's law enforcement personnel shall have the~~
30 ~~right to take the offenders before any court having jurisdiction in the~~
31 ~~county where the offense is committed.~~

32 ~~(b) Violations of Poison Springs State Forest regulations shall be~~
33 ~~considered unclassified misdemeanors, the penalty for which shall be in~~
34 ~~accordance with the regulation defining the conduct, but in no case shall the~~
35 ~~penalty for violating any Poison Springs State Forest regulation exceed the~~
36 ~~penalty established by law for a Class A misdemeanor.~~

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SECTION 101. Arkansas Code § 15-31-116(b)(2), concerning donation of fire control or fire rescue equipment, is amended to read as follows:

(2) The commission, the State Forester, the Department of Agriculture, the Secretary of the Department of Agriculture, and other officers and employees of the department are not liable in civil damages for personal injury, property damage, or death resulting from a defect in equipment sold, loaned, or otherwise made available in good faith by the State Forester under this section unless the act or omission of the commission, ~~or the State Forester,~~ the department, the secretary, or the officer or employee of the department ~~officer, or employee~~ proximately causing the claim, damage, or loss constitutes malice, gross negligence, recklessness, or intentional misconduct.

SECTION 102. Arkansas Code § 17-31-201(b)(2)(B)(ii), concerning the creation and selection of members of the Arkansas State Board of Registration for Foresters, is amended to read as follows:

(ii) One (1) member shall be nominated by the ~~State Forester~~ Arkansas Forestry Commission to represent the Arkansas Forestry Commission.

SECTION 103. Arkansas Code § 17-31-204(c), concerning the powers of the Arkansas State Board of Registration for Foresters, is amended to read as follows:

(c) Each member of the board shall have power to administer oaths. The board shall have power to subpoena witnesses and compel the production of books and papers pertinent to any investigation or hearing authorized by this chapter. Any employee of ~~the board~~ the Department of Agriculture engaged in making any investigation on behalf of the board shall have the power to administer oaths to and take depositions of persons pertaining to any investigation. The board may require any law enforcement officer of any state agency, the sheriffs of the various counties, or other law enforcement officers of any county or municipality to serve subpoenas and other process of the board. When county, municipal, or other local officers are required to serve subpoenas or other process of the board, they shall be paid the same fees by the board as are provided by laws for similar services under process

1 issued by circuit courts.

2
3 SECTION 104. Arkansas Code § 17-31-205 is repealed.

4 ~~17-31-205. Staff and employees.~~

5 ~~The Arkansas State Board of Registration for Foresters may appoint or~~
6 ~~employ an assistant secretary, executive secretary, treasurer, or other~~
7 ~~officers or employees who are not members of the board or of their immediate~~
8 ~~families, to whom clerical and administrative duties may be assigned and~~
9 ~~whose compensation shall be fixed by the board.~~

10
11 SECTION 105. Arkansas Code § 17-31-207(e), concerning the records and
12 reports of the Arkansas State Board of Registration for Foresters, is
13 repealed.

14 ~~(e) The board shall submit to the Governor an annual report of its~~
15 ~~transactions of the preceding year by April 1 and shall also transmit to the~~
16 ~~Governor a duly certified audit and financial statement prepared by a~~
17 ~~certified public accountant showing receipts and expenditures of the board.~~

18
19 SECTION 106. Arkansas Code § 17-47-202(4), concerning the powers of
20 the Arkansas State Board of Registration for Professional Soil Classifiers,
21 is repealed.

22 ~~(4) Employ clerks, technical experts, and attorneys as it may~~
23 ~~deem necessary or desirable to carry out the provisions of this chapter;~~

24
25 SECTION 107. Arkansas Code § 17-47-202(6), concerning the powers of
26 the Arkansas State Board of Registration for Professional Soil Classifiers,
27 is amended to read as follows:

28 (6) Enter into agreements with the ~~Arkansas Soil and Water~~
29 ~~Conservation Commission~~ Department of Agriculture to share office, clerical,
30 and secretarial services and to reimburse the ~~commission~~ department for the
31 cost of the services.

32
33 SECTION 108. Arkansas Code § 17-47-203(2), concerning the records,
34 reports, and disposition of funds of the Arkansas State Board of Registration
35 for Professional Soil Classifiers, is amended to read as follows:

36 (2) Annually submit to the ~~Governor~~ Secretary of the Department

1 of Agriculture a report of its transactions of the preceding year and
2 transmit to him or her a complete statement of the receipts and expenditures
3 of the board attested by affidavits of its chair and its secretary; and
4

5 SECTION 109. Arkansas Code § 17-47-308(b)(1), concerning the
6 expiration and renewal of certificates of registration issued by the Arkansas
7 State Board of Registration for Professional Soil Classifiers, is amended to
8 read as follows:

9 (b)(1) It shall be the duty of the ~~secretary of the~~ Arkansas State
10 Board of Registration for Professional Soil Classifiers to notify every
11 person registered under this chapter of the date of the expiration of the
12 certificate of registration and the amount of the fee required for its
13 renewal.
14

15 SECTION 110. Arkansas Code § 17-47-312(b), concerning the disciplinary
16 action procedures of the Arkansas State Board of Registration for
17 Professional Soil Classifiers, is amended to read as follows:

18 (b) Charges shall be in writing, shall be sworn to by the person or
19 persons making them, and shall be filed with the ~~secretary of the~~ Arkansas
20 State Board of Registration for Professional Soil Classifiers.
21

22 SECTION 111. Arkansas Code § 17-50-201(b)(1) and (2), concerning the
23 creation of the Commission on Water Well Construction, are amended to read as
24 follows:

25 (1) The ~~Executive Director~~ Secretary of the Department of Health
26 or his or her designated representative;

27 (2) The ~~Director of the Arkansas Natural Resources Commission~~
28 Secretary of the Department of Agriculture or his or her designated
29 representative;
30

31 SECTION 112. Arkansas Code § 17-50-202 is amended to read as follows:
32 17-50-202. Employees.

33 The Commission on Water Well Construction ~~shall~~ may:

34 (1) ~~Employ~~ Allocate funds to the Department of Agriculture to
35 employ an executive secretary who, ~~with the approval of the agency housing~~
36 ~~the commission's office, may~~ shall be an employee of the ~~agency~~ department;

1 and

2 (2) ~~Hire such other employees and contract~~ Contract for such
3 legal and engineering services ~~as may be~~ necessary to perform its powers and
4 duties under the provisions of this chapter and fix their salaries within
5 such limitations as may be provided by law; and

6 (3) Allocate funds to the Department of Agriculture to provide
7 legal and engineering services necessary to perform the powers and duties of
8 the commission under the provisions of this chapter.

9

10 SECTION 113. Arkansas Code § 17-50-203 is amended to read as follows:
11 17-50-203. Office.

12 ~~The office of one (1) of the agencies represented on the Commission on~~
13 ~~Water Well Construction may be designated by the commission to~~ Department of
14 Agriculture or the department's designee shall house the office of the
15 Commission on Water Well Construction.

16

17 SECTION 114. Arkansas Code § 17-50-204(a)(6)-(9), concerning the
18 powers and duties of the Commission on Water Well Construction, are amended
19 to read as follows:

20 (6) Authorize the Department of Agriculture to:

21 (A) Hold examinations of applicants for certificates of
22 registration at least one (1) time a year;

23 ~~(7)(B)~~ Grade all tests and examinations for certificates
24 of registration; and

25 ~~(8)(C)~~ Issue licenses, permits, or certificates for the
26 type or class of well construction or repair or pump installation; and

27 ~~(9)(7)~~ Perform such other duties as are consistent with the
28 purposes of this chapter.

29

30 SECTION 115. Arkansas Code § 17-50-205(a) and (b), concerning
31 inspections of water wells or abandoned water wells, are amended to read as
32 follows:

33 (a) ~~The Commission on Water Well Construction~~ Department of
34 Agriculture is authorized to inspect any water well or abandoned water well.
35 ~~Authorized representatives of the commission~~ Department employees may at
36 reasonable times enter upon, and shall be given access to, any premises for

1 the purpose of inspection.

2 (b) Upon the basis of such inspections, if the ~~commission~~ Commission
3 on Water Well Construction finds that applicable laws, rules, or regulations
4 have not been complied with or that a health hazard exists, the commission
5 shall disapprove the well. If disapproved, no well shall thereafter be used
6 until brought into compliance and any health hazard is eliminated.

7

8 SECTION 116. Arkansas Code § 17-50-209 is amended to read as follows:
9 17-50-209. Investigations.

10 When engaged in any investigation, any employee of the ~~Commission on~~
11 ~~Water Well Construction~~ Department of Agriculture shall have the power to
12 administer oaths and to take depositions of persons relevant to any
13 investigations for violations of this chapter.

14

15 SECTION 117. Arkansas Code § 17-101-202 is repealed.
16 ~~17-101-202. Secretary treasurer.~~

17 ~~(a) The Secretary treasurer of the Veterinary Medical Examining Board~~
18 ~~shall be the custodian of all fees paid by the Veterinary Medical Examining~~
19 ~~Board under the provisions of this chapter and shall deposit all fees~~
20 ~~received with the Treasurer of State for the exclusive use of the board.~~

21 ~~(b) The secretary treasurer shall be paid a salary in such sums as may~~
22 ~~be determined by the board.~~

23 ~~(c) The secretary treasurer shall execute a bond to the board, in such~~
24 ~~sums as shall be prescribed from time to time by the board, to faithfully~~
25 ~~discharge his or her duties as treasurer.~~

26

27 SECTION 118. Arkansas Code § 17-101-203(5), concerning the powers and
28 duties of the Veterinary Medical Examining Board, is repealed.

29 ~~(5) Employ personnel necessary to carry out its duties;~~

30

31 SECTION 119. Arkansas Code Title 17, Chapter 101, Subchapter 2, is
32 amended to add an additional section to read as follows:

33 17-101-204. Director.

34 The Secretary of the Department of Agriculture may employ a Director of
35 the Veterinary Medical Examining Board.

36

1 SECTION 120. Arkansas Code § 19-5-1255(c), concerning the Arkansas
2 Unpaved Roads Program Fund, is amended to read as follows:

3 (c) The fund shall be used by the ~~Rural Services Division of the~~
4 ~~Arkansas Economic Development Commission~~ Department of Agriculture to award
5 grants to counties under the Arkansas Unpaved Roads Program Act, § 14-305-101
6 et seq.

7
8 SECTION 121. Arkansas Code § 19-6-480 is amended to read as follows:
9 19-6-480. Livestock and Poultry Special Revenue Fund.

10 The Livestock and Poultry Special Revenue Fund shall consist of those
11 special revenues as specified in § 19-6-301(33) and (34) which are not
12 required for support of the Arkansas Livestock and Poultry Commission Poultry
13 and Egg Grading Program, there to be used for those purposes as set out by
14 law. The ~~Executive~~ Director of the Arkansas Livestock and Poultry Commission,
15 with the approval of the Chief Fiscal Officer of the State, shall have the
16 authority to transfer funds from the Livestock and Poultry Special Revenue
17 Fund to the Livestock and Poultry Fund Account.

18
19 SECTION 122. Arkansas Code § 19-6-809(c), concerning the Arkansas
20 Alternative Fuels Development Fund, is amended to read as follows:

21 (c) The fund shall be used by the ~~Arkansas Agriculture Department~~
22 Department of Agriculture to provide grants to support alternative fuels
23 producers, feedstock processors, and alternative fuels distributors in
24 Arkansas as provided under the Arkansas Alternative Fuels Development Act, §
25 15-13-101 et seq., or as otherwise provided by law.

26
27 SECTION 123. Arkansas Code § 20-20-205 is amended to read as follows:
28 20-20-205. Administration of subchapter by State Plant Board.

29 (a) This subchapter shall be administered by the State Plant Board.

30 (b) The functions vested in the board by this subchapter shall be
31 considered to be delegated to the employees of the ~~board~~ Department of
32 Agriculture or its authorized representatives.

33
34 SECTION 124. Arkansas Code § 22-5-510 is amended to read as follows:
35 22-5-510. Records and reports.

36 The Arkansas Forestry Commission shall cause a record of all its

1 proceedings relating to state forests, including the date of acquisition,
2 description, source of title, purchase price, amounts expended in the
3 development of each tract, and the forest to which allotted, to be kept in
4 the office of the ~~commission, Department of Agriculture and shall make a~~
5 ~~biannual written report thereof to the Governor.~~

6
7 SECTION 125. Arkansas Code § 22-5-804(a)(1), concerning the Natural
8 Resources Committee of the Arkansas State Game and Fish Commission, is
9 amended to read as follows:

10 (a)(1) The Natural Resources Committee is created and shall be
11 composed of the following members:

12 (A) The ~~Director~~ Secretary of the Department of Finance
13 and Administration;

14 (B) The Director of Production and Conservation of the Oil
15 and Gas Commission;

16 (C) The State Geologist;

17 (D) The ~~State Forester~~ Secretary of the Department of
18 Agriculture;

19 (E) ~~The Executive Director of the Arkansas Natural~~
20 ~~Resources Commission~~;

21 ~~(F)~~ The Commissioner of State Lands;

22 ~~(G)~~(F) The Executive Secretary of the Arkansas State Game
23 and Fish Commission;

24 ~~(H)~~(G) The ~~Director~~ Secretary of the Department of Parks,
25 Heritage, and Tourism;

26 ~~(I)~~(H) The Director of the ~~Arkansas Department~~ Division of
27 Environmental Quality; and

28 ~~(J)~~(I) The Chair of the Arkansas Natural Heritage
29 Commission.

30
31 SECTION 126. Arkansas Code § 24-4-804(c)(2), concerning cessation of
32 participation in the Arkansas Public Employees' Retirement System Deferred
33 Retirement Option Plan, is amended to read as follows:

34 (2)(A)(i) This section does not apply to a member who was an
35 employee of the Arkansas Forestry Commission, the Arkansas Livestock and
36 Poultry Commission, or the State Plant Board, and who is a participant in the

1 Arkansas Public Employees' Retirement System Deferred Retirement Option Plan
2 who may be eligible for reemployment after satisfying the separation
3 requirements of § 24-4-520(b) as an essential seasonal staff member with the
4 Arkansas Forestry Commission, the Arkansas Livestock and Poultry Commission,
5 or the State Plant Board.

6 (ii) This section does not apply to a member who was
7 an employee of the Department of Agriculture on or after July 1, 2019, and
8 who is a participant in the Arkansas Public Employees' Retirement System
9 Deferred Retirement Option Plan who may be eligible for reemployment after
10 satisfying the separation requirements of § 24-4-520(b) as an essential
11 seasonal staff member with the Department of Agriculture.

12 (B) As used in subdivision (c)(2)(A) of this section,
13 "essential seasonal staff member" means an employee of the Department of
14 Agriculture, the Arkansas Forestry Commission, the Arkansas Livestock and
15 Poultry Commission, or the State Plant Board who:

16 (i) Has specialized knowledge, skill, or training
17 pertaining to necessary duties or tasks to be completed by the Department of
18 Agriculture, the Arkansas Forestry Commission, the Arkansas Livestock and
19 Poultry Commission, or the State Plant Board in times of emergency, disaster
20 cleanup, extreme weather, or other circumstances deemed pressing by the
21 Department of Agriculture, the Arkansas Forestry Commission, the Arkansas
22 Livestock and Poultry Commission, or the State Plant Board; and

23 (ii) Is employed by the Department of Agriculture,
24 the Arkansas Forestry Commission, the Arkansas Livestock and Poultry
25 Commission, or the State Plant Board on a part-time basis:

26 (a) During times of emergency, disaster
27 cleanup, extreme weather, or other circumstances deemed pressing by the
28 Department of Agriculture, the Arkansas Forestry Commission, the Arkansas
29 Livestock and Poultry Commission, or the State Plant Board; or

30 (b) As an instructor to train other staff for
31 times of emergency, disaster cleanup, extreme weather, or other circumstances
32 deemed pressing by the Department of Agriculture, the Arkansas Forestry
33 Commission, the Arkansas Livestock and Poultry Commission, or the State Plant
34 Board.

35
36 SECTION 127. Arkansas Code § 25-38-207(b), concerning the organization

1 and duties of the Arkansas Agriculture Board, is amended to read as follows:

2 (b) The Arkansas Agriculture Board shall advise the Secretary of the
3 ~~Arkansas Agriculture Department~~ Department of Agriculture on all matters
4 concerning agriculture, aquaculture, horticulture, and kindred industries.
5

6 SECTION 128. Arkansas Code § 25-38-208 is amended to read as follows:

7 25-38-208. Agencies not affected.

8 The establishment of the ~~Arkansas Agriculture Department~~ Department of
9 Agriculture shall in no way affect the duties, powers, or operations of the
10 following boards and councils:

- 11 (1) Arkansas Beef Council;
 - 12 (2) Arkansas Catfish Promotion Board;
 - 13 (3) Arkansas Corn and Grain Sorghum Promotion Board;
 - 14 (4) Arkansas Rice Research and Promotion Board;
 - 15 (5) Arkansas Soybean Promotion Board; or
 - 16 (6) Arkansas Wheat Promotion Board.
- 17

18 SECTION 129. Arkansas Code § 25-38-210 is amended to read as follows:

19 25-38-210. Agricultural exchanges.

20 The ~~Arkansas Agriculture Department~~ Department of Agriculture shall:

21 (1) Evaluate the potential economic benefits to Arkansas and
22 Arkansas farmers of entering into agricultural exchanges with Israel and
23 other countries that will foster the development of trade, mutual assistance,
24 and business relations between Arkansas and the other country; and

25 (2) Annually report the department's findings under subdivision
26 (1) of this section to the House Committee on Agriculture, Forestry, and
27 Economic Development and the Senate Committee on Agriculture, Forestry, and
28 Economic Development.
29

30 SECTION 130. Arkansas Code § 27-21-105 is amended to read as follows:

31 27-21-105. Enforcement.

32 The officers and employees of the ~~Arkansas Forestry Commission~~
33 Department of Agriculture shall have no authority to enforce the provisions
34 of this chapter.
35

36 SECTION 131. Arkansas Code Title 25, Chapter 43, is amended to add an

1 additional subchapter to read as follows:

2 Subchapter 3 – Department of Commerce

3

4 25-43-301. Department of Commerce.

5 There is created a Department of Commerce as a cabinet-level
6 department.

7

8 25-43-302. State entities transferred to Department of Commerce.

9 (a) The administrative functions of the following state entities are
10 transferred to the Department of Commerce by a cabinet-level department
11 transfer:

12 (1) The Adult Education Section of the Department of Career
13 Education, and now to be known as the Adult Education Section, created under
14 § 25-43-305;

15 (2) The Arkansas Deaf and Hearing Impaired Telecommunications
16 Service Corporation, created under § 25-29-101;

17 (3) The Arkansas Department of Aeronautics, created under § 27-
18 115-101, and now to be known as the Division of Aeronautics;

19 (4) The Arkansas Development Finance Authority, created under §
20 15-5-201;

21 (5) The Arkansas Economic Development Commission, created under
22 § 25-11-101;

23 (6) The Arkansas Economic Development Council, created under §
24 15-4-201 and § 25-11-102;

25 (7) The Arkansas Housing Trust Fund Advisory Committee, created
26 under § 15-5-1706;

27 (8) Arkansas Rehabilitation Services, created under § 6-52-101;

28 (9) The Arkansas Rural Development Commission, created under §
29 15-6-104;

30 (10) The Arkansas Waterways Commission, created under § 15-23-
31 201;

32 (11) The Arkansas Wine Producers Council, created under § 3-5-
33 701;

34 (12) The Arkansas Workforce Development Board, created under §
35 15-4-3704;

36 (13) The Board of Review, created under § 11-10-523;

1 (14) The Board of the Division of State Services for the Blind,
2 created under § 25-10-205;

3 (15) The Career Education and Workforce Development Board,
4 created under § 25-30-101;

5 (16) The Department of Workforce Services, created under § 11-
6 10-301, and now to be known as the Division of Workforce Services;

7 (17) The Division of Minority and Women-Owned Business
8 Enterprise of the Arkansas Economic Development Commission, created under §
9 15-4-304;

10 (18) The Division of Science and Technology of the Arkansas
11 Economic Development Commission, created under § 15-3-103;

12 (19) The Division of State Services for the Blind, created under
13 § 25-10-201;

14 (20) The Governor's Commission on People with Disabilities,
15 created under § 20-14-202;

16 (21) The Office of Skills Development, created under § 25-30-
17 109;

18 (22) The State Bank Department, created under § 23-46-201;

19 (23) The State Banking Board, created under § 23-46-301;

20 (24) The State Board of Embalmers, Funeral Directors,
21 Cemeteries, and Burial Services, created under § 23-61-1102;

22 (25) The State Insurance Department, created under § 23-61-101;
23 and

24 (26) The State Securities Department, created under the Arkansas
25 Securities Act § 23-42-101 et seq.

26 (b) Unless otherwise provided by law, a cabinet-level department
27 transfer under subsection (a) of this section includes all state entities
28 under a state entity transferred to the Department of Commerce under
29 subsection (a) of this section, including without limitation a division,
30 office, program, or other unit of a state entity transferred to the
31 Department of Commerce under subsection (a) of this section.

32 (c) Unless otherwise provided by law, a state entity whose
33 administrative functions have been transferred to the Department of Commerce
34 under subsection (a) of this section shall otherwise continue to exercise the
35 duties of the state entity under the administration of the cabinet-level
36 Department of Commerce in the same manner as before the creation of the

1 cabinet-level department.

2
3 25-43-303. Secretary of the Department of Commerce.

4 (a) The executive head of the Department of Commerce shall be the
5 Secretary of the Department of Commerce.

6 (b) The secretary shall be appointed by the Governor, subject to
7 confirmation by the Senate, and shall serve at the pleasure of the Governor.

8 (c) Each division of the department shall be under the direction,
9 control, and supervision of the secretary.

10 (d) The secretary may delegate his or her functions, powers, and
11 duties to various divisions or employees of the department as he or she shall
12 deem desirable and necessary for the effective and efficient operation of the
13 department.

14 (e) The secretary may, unless otherwise provided by law:

15 (1) Hire department personnel;

16 (2) Perform or assign duties assigned to the department; and

17 (3) Serve as the director or the administrative or executive
18 head of any state entity under the administrative control of the department
19 if the secretary also meets all statutory requirements for the position.

20
21 25-43-304. Compliance with federal law.

22 (a) All employees of the Department of Commerce shall be assigned and
23 perform assigned duties in compliance with all applicable federal laws,
24 regulations, and rules, including without limitation all rules related to the
25 State Securities Department and the State Insurance Department.

26 (b) To ensure compliance with federal law, only Department of Commerce
27 employees who are dedicated employees of the State Bank Department shall:

28 (1) Conduct examinations of financial institutions;

29 (2) Handle and process reports of examinations of financial
30 institutions; and

31 (3) Handle confidential financial institution information.

32
33 25-43-305. Adult Education Section of the Division of Workforce
34 Services.

35 (a) There is created within the Division of Workforce Services an
36 Adult Education Section.

1 (b) The Secretary of the Department of Commerce may delegate any
2 duties and responsibilities to the Adult Education Section.

3 (c) The secretary may employ the personnel necessary to administer the
4 Adult Education Section.

5
6 SECTION 132. Arkansas Code § 3-5-703(d), concerning the powers and
7 duties of the Arkansas Wine Producers Council, is amended to read as follows:

8 (d) Upon approval by a majority vote of the council of a proposal for
9 research by a university research institution or for promotion or tourism by
10 the commission, the council shall direct the Chief Fiscal Officer of the
11 State to transfer on the Department of Finance and Administration books, and
12 shall cause to be transferred on the books of the Treasurer of State and the
13 Auditor of State, such amounts as determined by the council from the Arkansas
14 Wine Producers Council Fund to the Department of Parks, Heritage, and Tourism
15 Fund Account and to the operating fund or fund accounts of approved research
16 institutions. Use of these funds may be applied as prescribed in this section
17 in the various states of the United States and foreign countries.

18
19 SECTION 133. Arkansas Code § 4-30-207(a), concerning banks declared to
20 be investment companies, is amended to read as follows:

21 (a) Every cooperative bank organized under this chapter prior to March
22 22, 1937, which is not situated in a city, town, or community in which there
23 is also situated a state or national bank or a teller's window branch thereof
24 is declared to be an investment company and shall be placed under the
25 regulation and supervision of the State Securities Department, in the same
26 manner as now provided by law for other investment companies. The Securities
27 Commissioner, with the approval of the Secretary of the Department of
28 Commerce, is authorized, empowered, and directed to make and promulgate all
29 such rules and regulations not inconsistent herewith as shall be necessary or
30 convenient for the administration and carrying out of this subchapter and for
31 the supervision and control of all such organizations.

32
33 SECTION 134. Arkansas Code § 4-113-104(a)(2), concerning the creation
34 of the Arkansas Broadband Council, is amended to read as follows:

35 (2) Receive input from all Arkansas broadband stakeholders and
36 advise the ~~Governor~~ Secretary of the Department of Commerce and the General

1 Assembly on policies related to broadband in Arkansas;

2

3 SECTION 135. Arkansas Code § 4-113-104(b)(5), concerning the creation
4 of the Arkansas Broadband Council, is amended to read as follows:

5 (5) The ~~Executive~~ Director of the Arkansas Economic Development
6 Commission or his or her designee who shall serve as an ex officio member of
7 the council.

8

9 SECTION 136. Arkansas Code § 5-4-303(e)(1)(B)(ii)(c), concerning the
10 conditions of suspension or probation for a defendant, is amended to read as
11 follows:

12 (c) Earn a high school diploma by passing the
13 ~~Department of Career Education~~ Adult Education Section approved assessment;
14 or

15

16 SECTION 137. Arkansas Code § 5-4-323(a)(1), concerning a high school
17 diploma or high school equivalency diploma and employment training, is
18 amended to read as follows:

19 (a)(1) As an additional requirement for suspension of sentence or
20 probation, a court may require any person who is sentenced for a felony or a
21 Class A misdemeanor to make a good faith effort toward completion of a high
22 school diploma or a high school equivalency diploma approved by the
23 ~~Department of Career Education~~ Adult Education Section unless the person has
24 already achieved a high school diploma or a high school equivalency diploma.

25

26 SECTION 138. Arkansas Code § 5-4-323(a)(5)(B), concerning a high
27 school diploma or high school equivalency diploma and employment training, is
28 amended to read as follows:

29 (B) The office shall then report to the ~~Department of~~
30 ~~Career Education~~ Adult Education Section.

31

32 SECTION 139. Arkansas Code § 5-4-908(b)(2)-(4), concerning the
33 operation of the pre-adjudication probation program, are amended to read as
34 follows:

35 (2) The ~~Department of Education~~ Division of Elementary and
36 Secondary Education;

1 (3) The ~~Department of Career Education~~ Adult Education Section;

2 (4) The ~~Department~~ Division of Community Correction;

3
4 SECTION 140. Arkansas Code § 6-5-1102(g), concerning the
5 establishment, membership, and meetings of the Council on Postsecondary
6 Education and Career Readiness, is amended to read as follows:

7 (g) The ~~Department of Education, Department of Higher Education, and~~
8 ~~Department of Career Education, alternating each year,~~ Department of Commerce
9 shall provide meeting space and staff for the council.

10
11 SECTION 141. Arkansas Code § 6-11-202 is amended to read as follows:
12 6-11-202. Records of proceedings.

13 The Career Education and Workforce Development Board shall keep in the
14 office of the Director of the ~~Department of Career Education~~ Office of Skills
15 Development a complete record of the minutes of its meetings and other
16 proceedings.

17
18 SECTION 142. Arkansas Code § 6-11-204(a), concerning copies of
19 documents as evidence authenticated by the official seal of the Career
20 Education and Workforce Development Board, is amended to read as follows:

21 (a) The Career Education and Workforce Development Board shall adopt a
22 seal, and the seal shall be used by the Director of the ~~Department of Career~~
23 ~~Education~~ Office of Skills Development to authenticate documents or copies of
24 documents as the board or director considers advisable.

25
26 SECTION 143. Arkansas Code § 6-16-118(b), concerning high school
27 equivalency testing for adults and fees, is amended to read as follows:

28 (b) A high school equivalency test for adults shall be administered by
29 the educational agencies and institutions approved by the ~~Department of~~
30 ~~Career Education~~ Adult Education Section.

31
32 SECTION 144. Arkansas Code § 6-18-201(a)(1)(B)(ii), concerning
33 compulsory school attendance and exceptions, is amended to read as follows:

34 (ii) The kindergarten waiver form shall be
35 prescribed by rule of the ~~Department of Education~~ Division of Elementary and
36 Secondary Education.

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SECTION 145. Arkansas Code § 6-18-201(b)(2)(A), concerning compulsory school attendance and exceptions, is amended to read as follows:

(2)(A) After formal application and before any further action on the application, the student shall be administered either a basic skills test or a high school equivalency practice test under standardized testing conditions by a public school official designated by the school and shall score an appropriate score as determined by the Adult Education ~~Division of the Department of Career Education~~ Section on the basic skills test or a passing score on all areas of the official high school equivalency practice test.

SECTION 146. Arkansas Code § 6-18-201(b)(9), concerning compulsory school attendance and exceptions, is amended to read as follows:

(9) In the event that a more appropriate assessment test or testing and assessment mechanism shall be developed to determine a reasonable level of competency for success at the adult education level, that test or mechanism shall be substituted, with the approval of the Adult Education ~~Division of the Department of Career Education~~ Section, for the tests required in subdivision (b)(2) of this section;

SECTION 147. Arkansas Code § 6-18-201(e)(2), concerning compulsory school attendance and exceptions, is amended to read as follows:

(2) Any contract for services by an adult education program for sixteen-year-olds and seventeen-year-olds shall be submitted to the ~~Department of Career Education~~ Adult Education Section for final approval.

SECTION 148. Arkansas Code § 6-50-702(6), concerning the definition of "governing council" under the Arkansas Existing Workforce Training Act of 1995, is amended to read as follows:

(6) "Governing council" means the ~~directors~~ Director of the Arkansas Economic Development Commission, the ~~Department~~ Director of the Division of Higher Education, and the ~~Department~~ Director of the Office of ~~Career Education~~ Skills Development or their designees;

SECTION 149. Arkansas Code § 6-52-101(a), concerning the Arkansas

1 Rehabilitation Services, is amended to read as follows:

2 (a) ~~Effective July 1, 1993, the Division of Rehabilitation Services of~~
3 ~~the Department of Human Services is transferred to the Department of Career~~
4 ~~Education and shall be known as the~~ There is created Arkansas Rehabilitation
5 Services as an entity within the Division of Workforce Services of the
6 Department of Commerce. ~~The State Board of Career Education shall have the~~
7 ~~same authority and responsibility with respect to the administration and~~
8 ~~operation of the Arkansas Rehabilitation Services as it has with respect to~~
9 ~~the Department of Career Education.~~

10
11 SECTION 150. Arkansas Code § 6-52-102 is amended to read as follows:

12 6-52-102. Transfer of authority, property, etc.

13 (a) All authorities and responsibilities defined in the Rehabilitation
14 Act of Arkansas, § 20-79-201 et seq., shall be administered by ~~the~~ Arkansas
15 Rehabilitation Services under the direction of the ~~State Board of Career~~
16 ~~Education~~ Division of Workforce Services, except those transferred to the
17 Division of State Services for the Blind by § 25-10-201 et seq.

18 (b) Any and all statutory authority, powers, duties, functions,
19 records, authorized positions, property, unexpended balances of
20 appropriations, allocations, or other funds transferred from the Division of
21 Rehabilitation Services to the Department of Human Services by § 25-10-102 et
22 seq. are hereby transferred to ~~the~~ Arkansas Rehabilitation Services.

23
24 SECTION 151. The introductory language of Arkansas Code § 6-52-103,
25 concerning the power and duties of the State Board of Career Education, is
26 amended to read as follows:

27 ~~The State Board of Career Education~~ Arkansas Workforce Development
28 Board, through ~~the~~ Arkansas Rehabilitation Services, shall provide the
29 rehabilitation services authorized by this subchapter to eligible physically
30 or mentally disabled individuals and those who can benefit from independent
31 living services, determined by the agency to be eligible therefor, and, in
32 carrying out the purposes of this subchapter, ~~the~~ Arkansas Rehabilitation
33 Services is authorized, among other things:

34
35 SECTION 152. Arkansas Code § 6-52-203 is amended to read as follows:

36 6-52-203. Rules.

1 The ~~Department of Career Education~~ Office of Skills Development and the
2 State Apprenticeship Coordination Steering Committee shall promulgate rules
3 necessary to implement the provisions of this subchapter.
4

5 SECTION 153. Arkansas Code § 6-52-204(b)(1) and (2), concerning the
6 State Apprenticeship Coordination Steering Committee, are amended to read as
7 follows:

8 (1) One (1) person designated by and representing the ~~Department~~
9 ~~of Career Education~~ Office of Skills Development;

10 (2) One (1) person designated by and representing the ~~Department~~
11 Division of Labor;

12
13 SECTION 154. Arkansas Code § 6-52-204(c)(1), concerning the State
14 Apprenticeship Coordination Steering Committee, is amended to read as
15 follows:

16 (c)(1) The member representing the general public shall be appointed
17 by the ~~Department of Career Education~~ Office of Skills Development for a term
18 of four (4) years.
19

20 SECTION 155. Arkansas Code § 6-52-205(b)(1), concerning the duties of
21 the State Apprenticeship Coordination Steering Committee, is amended to read
22 as follows:

23 (b)(1) The ~~Department of Career Education~~ Office of Skills Development
24 shall furnish the coordination committee with the current data necessary to
25 develop the plan.
26

27 SECTION 156. Arkansas Code § 6-52-206(a), concerning recommendations
28 of the State Apprenticeship Coordination Steering Committee, is amended to
29 read as follows:

30 (a) Recommendations of the State Apprenticeship Coordination Steering
31 Committee submitted to the ~~Department of Career Education~~ Office of Skills
32 Development must be acted on and either accepted or rejected.
33

34 SECTION 157. Arkansas Code § 6-52-207(a), concerning apprenticeship
35 training programs, is amended to read as follows:

36 (a) Pursuant to the provisions of this subchapter, the Director of the

1 ~~Department of Career Education~~ Office of Skills Development shall allocate
2 state funds for the support of apprenticeship training programs that meet the
3 criteria set forth in this subchapter.
4

5 SECTION 158. Arkansas Code § 6-52-207(h), concerning apprenticeship
6 training programs, is amended to read as follows:

7 (h) A program must be registered with the United States Office of
8 Apprenticeship and the ~~Department of Career Education~~ Office of Skills
9 Development.
10

11 SECTION 159. Arkansas Code § 6-53-203(b), concerning the duties and
12 powers of Arkansas Higher Education Coordinating Board, is amended to read as
13 follows:

14 (b) The board shall develop and maintain short-range and long-range
15 plans for providing current and appropriate occupational and technical
16 training for adults and may solicit information for its planning activities
17 from the State Board of Education, the ~~Department~~ Division of Workforce
18 Services, any industry training program of the state, any apprenticeship
19 training program of the state, and other state agencies, institutions, and
20 departments.
21

22 SECTION 160. Arkansas Code § 6-55-104(b), concerning the creation,
23 purpose, and administration of the Arkansas Construction Industry Craft
24 Training Program, is amended to read as follows:

25 (b) The program will be administered by the ~~Department of Career~~
26 Education Office of Skills Development in collaboration with the State
27 Apprenticeship Coordination Steering Committee created by § 6-52-204.
28

29 SECTION 161. Arkansas Code § 6-55-107(c), concerning apprenticeship
30 program requirements and the Arkansas Construction Industry Craft Training
31 Trust Fund, is amended to read as follows:

32 (c) Upon the recommendation of the State Apprenticeship Coordination
33 Steering Committee, the ~~Department of Career Education~~ Office of Skills
34 Development shall expend the moneys in the trust fund from time to time to
35 support the training program prescribed in this chapter.
36

1 SECTION 162. Arkansas Code § 6-55-108 is amended to read as follows:
2 6-55-108. Rules.

3 The ~~Department of Career Education~~ Office of Skills Development and the
4 State Apprenticeship Coordination Steering Committee shall promulgate rules
5 necessary to implement the provisions of this chapter.
6

7 SECTION 163. Arkansas Code § 6-56-101(1), concerning the definition of
8 "adult education program" under the laws regarding vocational and technical
9 education. is amended to read as follows:

10 (1) "Adult education program" means any classes designed to
11 assist students in preparing for a high school equivalency test and any class
12 designed to improve performance in general basic skills, parenting, English
13 proficiency, or other areas funded by the Adult Education Section ~~of the~~
14 ~~Department of Career Education~~; and
15

16 SECTION 164. Arkansas Code § 6-58-101(1), concerning the definition of
17 "adult education program" under the laws governing the National Park College,
18 is amended to read as follows:

19 (1) "Adult education program" means any classes designed to
20 assist students in preparing for a high school equivalency test, any class
21 designed to improve performance in general basic skills, parenting, English
22 proficiency, or other areas funded by the Adult Education Section ~~of the~~
23 ~~Department of Career Education~~; and
24

25 SECTION 165. Arkansas Code § 6-60-105(a)(1), concerning a report of
26 employment and earnings outcomes, is amended to read as follows:

27 (a)(1) Annually, ~~beginning June 30, 2016,~~ the ~~Department~~ Division of
28 Workforce Services shall prepare or contract with an entity to prepare an
29 economic security report of employment and earning outcomes for degrees and
30 certificates earned at state-supported institutions of higher education.
31

32 SECTION 166. Arkansas Code § 6-60-105(a)(3)(B), concerning employment
33 and earning outcomes and reporting by the Department of Workforce Services,
34 is amended to read as follows:

35 (B) Use data available to the ~~Department~~ Division of
36 Higher Education relating to the employment and earnings of graduates of

1 degree or certificate programs from a state-supported institution of higher
2 education;

3

4 SECTION 167. Arkansas Code § 6-60-105(b), concerning a report of
5 employment and earnings outcomes, is amended to read as follows:

6 (b) Annually, beginning July 1, 2016, a four-year state-supported
7 institution of higher education and a two-year state-supported institution of
8 higher education shall provide an enrolled student with electronic access to
9 the economic security report of employment and earnings outcomes prepared by
10 the ~~Department~~ Division of Workforce Services before the student registers
11 for classes.

12

13 SECTION 168. Arkansas Code § 6-60-105(d), concerning a report of
14 employment and earnings outcomes, is amended to read as follows:

15 (d) Annually, beginning August 1, 2016, a public school student in
16 grade seven through grade twelve (7-12) or the student's parent or guardian
17 shall receive a two-page summary of and electronic access to the ~~Department~~
18 Division of Workforce Service's economic security report of employment and
19 earnings outcomes prepared under this section.

20

21 SECTION 169. Arkansas Code § 6-60-107 is amended to read as follows:

22 6-60-107. Workforce initiative funding.

23 (a)(1) The ~~Department~~ Division of Higher Education shall act as the
24 disbursing entity for all funds for the Workforce Initiative Act of 2015.

25 (2) The ~~Department~~ Division of Higher Education shall establish
26 procedures for the request for proposals under subdivision (b)(2) of this
27 section that shall:

28 (A) Be approved by the Governor;

29 (B) Include input from the ~~Department of Education~~
30 Division of Elementary and Secondary Education, the ~~Department~~ Division of
31 Workforce Services, the Arkansas Economic Development Commission, and the
32 ~~Department~~ Division of Career and Technical Education; and

33 (C) Be reported to the Legislative Council.

34 (3) The ~~Department~~ Division of Higher Education shall establish
35 a grant application review and award process under this section that shall:

36 (A) Be approved by the Governor; and

1 (B) Include recommendations from the ~~Department of~~
2 ~~Education~~ Division of Elementary and Secondary Education, the ~~Department~~
3 Division of Workforce Services, the Arkansas Economic Development Commission,
4 and the ~~Department~~ Division of Career and Technical Education.

5 (b)(1) The ~~Department~~ Division of Higher Education shall set funding
6 priorities in three (3) phases.

7 (2)(A)(i) Phase one shall seek requests for proposals from
8 alliances consisting of technical institutes, community colleges,
9 universities, the kindergarten through grade twelve (K-12) education system,
10 educational cooperatives, or employers, with input from local workforce
11 investment boards, to receive planning grants of up to one hundred thousand
12 dollars (\$100,000).

13 (ii)(a) The local workforce investment boards shall
14 identify the industry sectors for each of their ten (10) areas.

15 (b) The identification process shall include a
16 comprehensive data analysis of employer skill requirements in each sector in
17 each region.

18 (c) The identified industry sectors and
19 employment skills shall serve as the basis for an application to a request
20 for proposal from the ~~Department~~ Division of Higher Education.

21 (B) A request for proposal shall include an education and
22 employer alignment plan that includes state-approved, employer-driven career
23 pathways that are supported by a secondary center that awards concurrent
24 credit courses that can be applied to a certificate of proficiency, technical
25 certificate, Associate of Applied Science degree, or Bachelor of Applied
26 Science degree or a similarly designed bachelor's degree.

27 (C) Recognizing the limited state resources, the priority
28 for planning grants shall be given to the applicants that best enhance
29 regional efforts, including collaboration between community colleges,
30 universities, public schools, education service cooperatives, the local
31 workforce investment boards, career and technical education programs,
32 multidistrict vocational centers, and private partnerships with clearly
33 defined and measurable performance and effectiveness objectives.

34 (3)(A) Phase two shall provide implementation grants in an
35 amount necessary to provide the resources to implement approved projects
36 concluded and approved by the ~~Department~~ Division of Higher Education from

1 phase one.

2 (B) Implementation grants shall include clearly defined
3 outcome measures and last for up to two (2) years.

4 (4)(A) Phase three shall provide continuation grants for phase
5 two recipients that meet or exceed the outcome measures.

6 (B) Continuation grants shall be used to align the
7 performance and relevance of programs to ever changing workforce training
8 needs.

9

10 SECTION 170. Arkansas Code § 6-61-1502(b)(6), concerning the
11 Electrical Energy Advancement Program Fund Board, is amended to read as
12 follows:

13 (6) The ~~Executive~~ Director of the Arkansas Economic Development
14 Commission or his or her designee; and

15

16 SECTION 171. Arkansas Code § 6-82-1804(a)(3)(B)(i), concerning
17 recipients of the Arkansas Future Grant, is amended to read as follows:

18 (i) The Department of Higher Education, in
19 consultation with the ~~Department~~ Division of Workforce Services, determines
20 that there was no employment position available that would reasonably enable
21 the student to meet this requirement; or

22

23 SECTION 172. The introductory language of Arkansas Code § 6-85-304(a),
24 concerning the eligibility of a student to receive an Arkansas Workforce
25 Challenge Scholarship, is amended to read as follows:

26 (a) A student is eligible to receive an Arkansas Workforce Challenge
27 Scholarship for an academic year if the student applies to the ~~Department~~
28 Division of Higher Education by a date determined by the ~~Department~~ Division
29 of Higher Education preceding the academic year and:

30

31 SECTION 173. Arkansas Code § 6-85-304(a)(2)(B), concerning funding for
32 Arkansas Workforce Challenge Scholarships, is amended to read as follows:

33 (B) Received a high school equivalency diploma approved by
34 the ~~Department of Career Education~~ Adult Education Section or another state;

35

36 SECTION 174. Arkansas Code § 6-85-304(a)(5)(A) and (B), concerning

1 funding for Arkansas Workforce Challenge Scholarships, are amended to read as
2 follows:

3 (5)(A) Whose program of study or certificate program will result
4 in the student's being qualified to work in an occupation identified by the
5 ~~Department~~ Division of Workforce Services under subdivision (a)(5)(B)(i) of
6 this section.

7 (B)(i) The ~~Department~~ Division of Workforce Services shall
8 provide annually to the ~~Department~~ Division of Higher Education by March 1 a
9 list that identifies the five (5) most in-demand occupations in this state in
10 each high-demand field under subdivision (a)(4) of this section that require
11 the completion of a program of study that leads to an associate degree or a
12 certificate program.

13 (ii) The ~~Department~~ Division of Workforce Services
14 shall publish on its website the list under subdivision (a)(5)(B)(i) of this
15 section and data supporting the list.

16

17 SECTION 175. Arkansas Code § 11-9-102(17)(A), concerning the
18 definition of "state average weekly wage" under the Workers' Compensation
19 Law, is amended to read as follows:

20 (17)(A) "State average weekly wage" means the state average
21 weekly wage determined annually by the ~~Department~~ Division of Workforce
22 Services in the preceding calendar year pursuant to § 11-10-502.

23

24 SECTION 176. Arkansas Code § 11-9-506(a), resulting from Initiated Act
25 4 of 1948 and concerning the recipients of unemployment benefits and
26 limitations on compensation, is amended to read as follows:

27 (a) Any other provisions of this chapter to the contrary
28 notwithstanding, no compensation in any amount for temporary total, temporary
29 partial, or permanent total disability shall be payable to an injured
30 employee with respect to any week for which the injured employee receives
31 unemployment insurance benefits under the ~~Department~~ Division of Workforce
32 Services Law, § 11-10-101 et seq., or the unemployment insurance law of any
33 other state.

34

35 SECTION 177. Arkansas Code § 11-10-101 is amended to read as follows:
36 11-10-101. Title.

1 This chapter shall be known and may be cited as the "~~Department~~
2 Division of Workforce Services Law".

3
4 SECTION 178. Arkansas Code § 11-10-106(d), concerning the disclosure
5 of information and penalties under the Department of Workforce Services Law,
6 is amended to read as follows:

7 (d) Disclosure of Information. If any employee or member of the Board
8 of Review, the Director of the ~~Department~~ Division of Workforce Services, or
9 any employee of the director, in violation of the provisions of § 11-10-314,
10 makes any disclosure of information obtained from any employing unit or
11 individual in the administration of this chapter; if any person who has
12 obtained any list of applicants for work, or of claimants or recipients of
13 benefits, under this chapter shall use or permit the use of the list for any
14 political purpose; or if any person who has lawfully obtained information
15 from the ~~Department~~ Division of Workforce Services which was obtained from
16 any employing unit or individual pursuant to the administration of this
17 chapter makes an unlawful use or disclosure of the information or uses or
18 discloses the information in a manner inconsistent with the purposes for
19 which it was lawfully obtained, then that person shall be fined not less than
20 twenty dollars (\$20.00) nor more than two hundred dollars (\$200) or
21 imprisoned for not longer than ninety (90) days, or both.

22
23 SECTION 179. Arkansas Code § 11-10-108(a), concerning the protection
24 of rights and benefits and the limitation of fees under the Department of
25 Workforce Services Law, is amended to read as follows:

26 (a) No individual claiming benefits shall be charged fees or costs of
27 any kind in any proceeding under this chapter by the Board of Review, the
28 Director of the ~~Department~~ Division of Workforce Services, or his or her or
29 its representatives, or by any court or any officer thereof, except that, if
30 the court determines that the proceedings for judicial review have been
31 instituted or continued without reasonable grounds, it may assess costs
32 against the claimant or employer instituting or continuing the proceedings.

33
34 SECTION 180. Arkansas Code § 11-10-109(e), concerning the protection
35 of rights and benefits, and the prohibition of the assignment, pledge or
36 encumbrance of benefits, is amended to read as follows:

1 (e) Benefits shall be subject to tax levies issued by the Internal
2 Revenue Service in accordance with 26 U.S.C. § 6331(h) provided that an
3 agreement is entered into between the Internal Revenue Service and the
4 ~~Department~~ Division of Workforce Services and approved by the United States
5 Department of Labor that provides for the payment of all administrative costs
6 associated with processing the tax levies.

7
8 SECTION 181. Arkansas Code § 11-10-110(a), concerning the protection
9 of rights and benefits and exceptions for withholding child support under the
10 Department of Workforce Services Law, is amended to read as follows:

11 (a) At the time of filing the claim, an individual filing a new claim
12 for unemployment compensation shall disclose whether or not the individual
13 owes child support obligations as defined under subsection (g)(1) of this
14 section. If any individual discloses that he or she owes child support
15 obligations and is determined to be eligible for unemployment compensation,
16 the Director of the ~~Department~~ Division of Workforce Services shall notify
17 the state or local child support enforcement agency enforcing the obligation
18 that the individual has been determined to be eligible for unemployment
19 compensation.

20
21 SECTION 182. Arkansas Code § 11-10-111(a)(2), concerning the
22 protection of rights and benefits and exceptions for withholding food stamp
23 overages under the Department of Workforce Services Law, is amended to read
24 as follows:

25 (2) The Director of the ~~Department~~ Division of Workforce
26 Services shall notify the state food stamp agency enforcing the obligation of
27 any individual who discloses that he or she owes a food stamp overage
28 obligation and who is determined to be eligible for unemployment
29 compensation.

30
31 SECTION 183. Arkansas Code § 11-10-201(b)(2), concerning the base
32 period for a benefit year, is amended to read as follows:

33 (2) "Extended base period" means the four (4) quarters prior to
34 the claimant's base period. These four (4) quarters may be substituted for
35 base period quarters on a quarter-by-quarter basis to establish a valid claim
36 regardless of whether the wages have been used to establish a prior claim,

1 except that any wages earned that would render the ~~Department~~ Division of
2 Workforce Services out of compliance with applicable federal law will be
3 excluded if used in a prior claim.

4
5 SECTION 184. Arkansas Code § 11-10-206 is amended to read as follows:
6 11-10-206. Director.

7 As used in this chapter, unless the context clearly requires otherwise,
8 “director” means the Director of the ~~Department~~ Division of Workforce
9 Services.

10
11 SECTION 185. Arkansas Code § 11-10-207 is amended to read as follows:
12 11-10-207. Regulations.

13 All regulations previously promulgated under this chapter shall be
14 enforceable by the Director of the ~~Department~~ Division of Workforce Services
15 and shall remain in full force and effect unless or until such time as
16 amended by the director.

17
18 SECTION 186. Arkansas Code § 11-10-208(c), concerning an employing
19 unit, is amended to read as follows:

20 (c)(1) Any employer may on or before December 1 prior to the year the
21 application is to become effective make application in writing to the
22 ~~Department~~ Division of Workforce Services to participate in a joint account
23 with one (1) or more other employers.

24 (2) The ~~department~~ division shall approve those applications
25 that meet the requirements of this section.

26 (3) Any application to participate in a joint account may be
27 filed on or before December 1 prior to the year the membership is to become
28 effective, provided, however, all contributions, interest, and penalties due
29 from the applicant-employer must be paid prior to the effective date of the
30 employer’s membership in the joint account.

31 (4) All such applications shall be accepted only on the
32 condition that the applicant waive all rights he or she has in his or her
33 individual employer account under the law when the ~~department~~ division
34 approves his or her application and merges his or her individual account into
35 a joint account for experience-rating purposes.

36 (5) Each applicant-employer shall agree to assume joint and

1 several liability for any contributions, interest, and penalties accruing on
2 the part of any one (1) of the employers participating in the joint account
3 during the duration of the account in consideration for the ~~department's~~
4 division's granting the applicant-employer the right to participate in it.

5 (6) Each employer participating in a joint account agrees to
6 maintain a sufficient record of the employee's own employment in order that
7 the employer can furnish the ~~department~~ division with information necessary
8 to enable the ~~department~~ division to make proper certification to the
9 Internal Revenue Service under the Federal Unemployment Tax Act and to enable
10 the ~~department~~ division to determine any benefit charges against the
11 employee's separate account.

12 (7) No reduced rate of contributions shall be established for
13 any joint account until each participating employer is individually eligible
14 for the calculation of a contribution rate.

15 (8) All joint accounts will be maintained only on a calendar-
16 year basis, and joint accounts must be maintained for a minimum period of two
17 (2) calendar years unless terminated sooner by action of the ~~department~~
18 division.

19 (9) All contribution credits for all employers in a joint
20 account will be calculated together. All benefit payments chargeable against
21 all employers in a joint account will be calculated together. The average
22 annual payroll of the joint account will be the average of the annual
23 payrolls of all employers participating in the account.

24 (10) If any individual, type of organization, or employing unit
25 succeeds to the business of an employer participating in a joint account
26 under conditions which would require the transfer of any separate account of
27 that employer to the successor, the successor shall be ipso facto a member of
28 the joint account.

29 (11)(A) Withdrawal from a joint account by any participating
30 employer may be approved if the request for withdrawal is made in writing to
31 the ~~department~~ division on or before September 30 of the year prior to the
32 year for which the withdrawal is to be effective.

33 (B) The withdrawing employer shall as of the effective
34 date of withdrawal be treated in all respects as a newly liable employer
35 regardless of all prior contributions or benefit payment experience.

36 (C) The remaining employer or employers shall continue to

1 constitute the joint account. The withdrawal or termination of all except one
2 (1) member shall not dissolve such joint account unless and until such last
3 member shall withdraw or terminate.

4 (12) Participation in a joint account shall not affect the right
5 of any employer to terminate the employer's liability, but after termination,
6 the employer shall in all respects be treated as a withdrawing employer under
7 this section.

8
9 SECTION 187. Arkansas Code § 11-10-209(10), concerning the definition
10 of "employer" under the Department of Workforce Services Law, is amended to
11 read as follows:

12 (10) For the purposes of subdivisions (1) and (3) of this
13 section, employment shall include service that would constitute employment
14 but for the fact that the service is deemed to be performed entirely within
15 another state pursuant to an election under an arrangement entered into, in
16 accordance with § 11-10-544(a), by the Director of the ~~Department~~ Division of
17 Workforce Services and any agency charged with the administration of any
18 other state or federal unemployment compensation law.

19
20 SECTION 188. Arkansas Code § 11-10-210(d), concerning the definition
21 of "employment" under the Department of Workforce Services Law, is amended to
22 read as follows:

23 (d) Service covered by an election pursuant to § 11-10-403 and service
24 covered by an election duly approved by the Director of the ~~Department~~
25 Division of Workforce Services in accordance with an arrangement pursuant to
26 § 11-10-544 shall be deemed to be employment during the effective period of
27 the election.

28
29 SECTION 189. Arkansas Code § 11-10-214(b), concerning the definition
30 of "unemployment" under the Department of Workforce Services Law, is amended
31 to read as follows:

32 (b) An individual's week of unemployment shall be deemed to commence
33 the day on which he or she registers at a local employment office, except as
34 the Director of the ~~Department~~ Division of Workforce Services may, by
35 regulation, otherwise prescribe.

36

1 SECTION 190. Arkansas Code § 11-10-215(a)(1), concerning the
2 definition of "wages" under the Department of Workforce Services Law, is
3 amended to read as follows:

4 (a)(1) As used in this chapter, "wages" means all remuneration paid
5 for personal services, including without limitation, commissions, bonuses,
6 cash value of all remuneration paid in any medium other than cash, the value
7 of which shall be estimated and determined in accordance with regulations
8 prescribed by the Director of the ~~Department~~ Division of Workforce Services,
9 and tips received while performing services which constitute employment and
10 which are included in a written statement furnished to the employer pursuant
11 to 26 U.S.C. § 6053(a).

12
13 SECTION 191. Arkansas Code § 11-10-227(f)(2)(A), concerning the
14 treatment of Indian tribes under the Department of Workforce Services Law, is
15 amended to read as follows:

16 (2)(A) Failure of the Indian tribe or any tribal unit thereof to
17 make required payments, including assessments of interest and penalty, after
18 all collection activities deemed necessary by the Director of the ~~Department~~
19 Division of Workforce Services have been exhausted shall cause services
20 performed for the tribe to not be treated as "employment" for purposes of
21 subsection (b) of this section.

22
23 SECTION 192. Arkansas Code § 11-10-301(a), concerning the creation of
24 the Department of Workforce Services and the appointment of the Director of
25 the Department of Workforce Services, is amended to read as follows:

26 (a)(1) There is created a ~~Department~~ division to be known as the
27 ~~Department~~ "Division of Workforce Services".

28 (2) ~~that~~ The division shall be administered by a full-time
29 salaried director.

30 (3) ~~who shall be~~ The Director of the Division of Workforce
31 Services shall be appointed by and serve at the pleasure of the Governor.

32 (4) The director shall report to the Secretary of the Department
33 of Commerce.

34 (2)(5) ~~The Director of the Department of Workforce Services~~
35 director shall have resided in the state for at least five (5) years and
36 shall be a qualified elector.

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SECTION 193. Arkansas Code § 11-10-301(d), concerning the duties of the Director of the Department of Workforce Services, is amended to read as follows:

(d) The director shall be the agent for service of process for all legal actions arising under this chapter or to which the ~~department~~ division shall be named a party.

SECTION 194. Arkansas Code § 11-10-303 is amended to read as follows:
11-10-303. ~~Department~~ Division of Workforce Services – Employee insurance plans.

(a) The Director of the ~~Department~~ Division of Workforce Services is authorized to formulate, adopt, and administer plans to provide the regular employees of the ~~Department~~ Division of Workforce Services, as an incident of their employment, with group life insurance or insurance against the payment of medical and hospital expenses or any similar type of insurance.

(b) Any plan adopted shall be paid pursuant to the contract entered into with one (1) or more insurance companies authorized to do business in this state, and it may require the payment of all or any part of the premium by the ~~Department of Workforce Services~~ division or by the employees.

(c) If any plan adopted requires contributions by the employees, the director may provide for the withholding of the amount of the employees' contribution from their salaries. However, the contributing share of funds paid by the ~~Department of Workforce Services~~ division as the employer shall come from funds granted to the agency by the United States Department of Labor for such purposes.

(d) The plan may provide for the continuation of any insurance provided on the same or on a different basis upon termination of employment or after the retirement of any employee who retires after March 3, 1971, pursuant to the Arkansas Public Employees' Retirement System.

(e) Any plan adopted shall provide benefits similar to those made available by the ~~federal~~ United States government to its employees generally, and the cost thereof per employee shall not exceed the cost per employee that the ~~federal~~ United States government pays for similar insurance benefits.

(f) Participation by any employee of the ~~Department of Workforce Services~~ division in any plan adopted shall be on a voluntary basis at the

1 option of the employee.

2

3 SECTION 195. Arkansas Code § 11-10-304(a)-(c), concerning the creation
4 of the Arkansas State Employment Service, are amended to read as follows:

5 (a) The Arkansas State Employment Service is established ~~in~~ within the
6 ~~Department~~ Division of Workforce Services.

7 (b) The Director of the ~~Department~~ Division of Workforce Services, in
8 the conduct of the service, shall establish and maintain free public
9 employment offices in such numbers and in such places as may be necessary for
10 the proper administration of this chapter and for the purpose of performing
11 such functions as are within the purview of the Act of the United States
12 Congress of June 6, 1933, hereinafter referred to as the "Wagner-Peyser Act".

13 (c) The provisions of that act of the United States Congress are
14 accepted by this state, and the ~~department~~ division is designated and
15 constituted the agency of this state for the purposes of that act.

16

17 SECTION 196. Arkansas Code § 11-10-304(f), concerning the creation of
18 the Arkansas State Employment Service, is amended to read as follows:

19 (f) In addition to the services and activities otherwise authorized by
20 this chapter, the ~~department~~ division may perform, or contract for the
21 performance of, such other services and activities as shall be specified in
22 contracts for payment or reimbursement of the costs thereof made with the
23 United States Secretary of Labor, with any federal, state, or local public
24 agency, or administrative entity, or with any employer or private for-profit
25 or nonprofit organization under, in accordance with, and in furtherance of
26 the purposes of the Job Training Partnership Act, Pub. L. No. 97-300
27 [repealed].

28

29 SECTION 197. Arkansas Code § 11-10-306(a), concerning the Director of
30 the Department of Workforce Services, is amended to read as follows:

31 (a) It shall be the duty of the Director of the ~~Department~~ Division of
32 Workforce Services to administer this chapter.

33

34 SECTION 198. Arkansas Code § 11-10-306(g)(1), concerning the Director
35 of the Department of Workforce Services, is amended to read as follows:

36 (g)(1) The director, in addition to other provisions of this chapter,

1 is authorized to set up and maintain ~~in~~ within the ~~Department~~ Division of
2 Workforce Services a unit known as the ~~enforcement unit~~ "Enforcement Unit".

3
4 SECTION 199. Arkansas Code § 11-10-307(a)(1), concerning the rule-
5 making authority of the Director of the Department of Workforce Services, is
6 amended to read as follows:

7 (a)(1) General and special rules may be adopted, amended, or rescinded
8 by the Director of the ~~Department~~ Division of Workforce Services only after
9 public hearing or opportunity to be heard thereon, on which proper notice has
10 been given.

11
12 SECTION 200. Arkansas Code § 11-10-308(a), concerning the Director of
13 the Department of Workforce Services and the administrative determinations of
14 coverage, is amended to read as follows:

15 (a) The Director of the ~~Department~~ Division of Workforce Services may,
16 upon his or her own motion or upon application of an employing unit, after
17 notice and opportunity for hearing, make findings of fact and, on the basis
18 thereof, determinations with respect to whether an employing unit constitutes
19 an employer and whether services performed for or in connection with the
20 business of an employing unit constitute employment for that employing unit.

21
22 SECTION 201. Arkansas Code § 11-10-309 is amended to read as follows:

23 11-10-309. Director – Publication of rules, reports, etc.

24 The Director of the ~~Department~~ Division of Workforce Services shall
25 make available for distribution to the public the text of this chapter, his
26 or her regulations and general and special rules, his or her annual report to
27 the Governor, and any other material he or she deems relevant and suitable
28 and shall furnish the materials to any person upon application therefor.

29
30 SECTION 202. Arkansas Code § 11-10-310(a), concerning personnel and
31 the Director of the Department of Workforce Services, is amended to read as
32 follows:

33 (a) Subject to other provisions of this chapter, the Director of the
34 ~~Department~~ Division of Workforce Services is authorized to appoint, fix the
35 compensation, and prescribe the duties and powers of such officers,
36 accountants, attorneys, experts, and other persons as may be necessary in the

1 performance of his or her duties under this chapter.

2
3 SECTION 203. Arkansas Code § 11-10-311 is amended to read as follows:
4 11-10-311. Employment stabilization.

5 The Director of the ~~Department~~ Division of Workforce Services shall
6 take all appropriate steps to reduce and prevent unemployment, to encourage
7 and assist in the adoption of practical methods of vocational training,
8 retraining, and vocational guidance, to investigate, recommend, advise, and
9 assist in the establishment and operation by municipalities, counties,
10 planning districts, school districts, and the state of programs for public
11 works to be used in times and places of economic downturn and high
12 unemployment for the purpose of promoting the employment of unemployed and
13 underemployed workers throughout the state, and to these ends, to carry on
14 research and such investigations as he or she shall deem necessary and to
15 publish the results thereof.

16
17 SECTION 204. Arkansas Code § 11-10-312(a), concerning the cooperation
18 between the Director of the Department of Workforce Services and the United
19 States Department of Labor, is amended to read as follows:

20 (a) In the administration of this chapter, the Director of the
21 ~~Department~~ Division of Workforce Services shall cooperate with the United
22 States Department of Labor to the fullest extent consistent with the
23 provisions of this chapter and shall take such action, through the adoption
24 of such appropriate rules, regulations, administrative methods, and standards
25 as may be necessary to secure to this state and its citizens all advantages
26 available under the provisions of the Social Security Act that relate to
27 unemployment compensation, the Federal Unemployment Tax Act, the Wagner-
28 Peyser Act, the Job Training Partnership Act [repealed], and the Federal-
29 State Extended Unemployment Compensation Act of 1970.

30
31 SECTION 205. The introductory language of Arkansas Code § 11-10-
32 313(a), concerning compensation based on multiple-state earnings, is amended
33 to read as follows:

34 (a) The Director of the ~~Department~~ Division of Workforce Services
35 shall participate in any arrangements for the payment of compensation on the
36 basis of combining an individual's wages and employment covered under this

1 chapter with his or her wages and employment covered under the unemployment
2 compensation laws of other states which are approved by the United States
3 Secretary of Labor in consultation with the state unemployment compensation
4 agencies as reasonably calculated to assure the prompt and full payment of
5 compensation in those situations and which include provisions for:

6
7 SECTION 206. Arkansas Code § 11-10-314(a), concerning the disclosure
8 of information under the Department of Workforce Services Law, is amended to
9 read as follows:

10 (a)(1) Except as otherwise provided in this section, information
11 obtained by the Director of the ~~Department~~ Division of Workforce Services
12 from any employing unit or individual pursuant to the administration of this
13 chapter and any determination as to the rights or status of any employer or
14 individual made by the director pursuant to the administration of this
15 chapter shall be held confidential and shall be protected by government
16 privilege.

17 (2)(A) The information shall not be used in any action or
18 proceeding before any court, administrative tribunal, or body except those
19 created by this chapter unless the ~~Department~~ Division of Workforce Services
20 is a party, a real party in interest, or a complainant therein or unless the
21 litigation involves criminal actions brought under provisions of this
22 chapter.

23 (B) This information shall not be otherwise disclosed or
24 be open to public inspection in any manner revealing the individual's or
25 employing unit's identity.

26
27 SECTION 207. Arkansas Code § 11-10-314(b)(1), concerning the
28 inspection and copying of records, and disclosure of information under the
29 Department of Workforce Services Law, is amended to read as follows:

30 (b)(1) Information from the records of the ~~Department~~ Division of
31 Workforce Services that concerns a claim for benefits shall be available for
32 inspection and copying by any interested party or his or her legal
33 representative to the extent necessary for the proper representation of his
34 or her position in any proceeding under this chapter.

35
36 SECTION 208. Arkansas Code § 11-10-314(b)(2)(B), concerning the

1 provision of information to the parties, and disclosure of information under
2 the Department of Workforce Services Law, is amended to read as follows:

3 (B) Any individual or employer may be provided any
4 information from the records of the ~~Department~~ Division of Workforce Services
5 to the extent that the information was provided by him or her; and
6

7 SECTION 209. Arkansas Code § 11-10-314(e)(1), concerning the
8 furnishing of information to other entities, and the disclosure of
9 information under the Department of Workforce Services Law, is amended to
10 read as follows:

11 (e)(1)(A) Upon request of a public agency administering or supervising
12 the administration of a state plan of ~~Aid to Families with Dependent Children~~
13 Temporary Assistance for Needy Families approved under Part A of Title IV of
14 the Social Security Act, or the administration of a state plan of medical
15 assistance approved under Title XIX of the Social Security Act, the
16 administration of a state plan of food stamps approved under the Food Stamp
17 Act of 1977, Pub. L. No. 95-113, request of a public agency charged with any
18 duty or responsibility authorized or required under the Child Support and
19 Establishment of Paternity Program provisions of Part D of Title IV of the
20 Social Security Act, or request of officers or employees of the United States
21 Department of Agriculture, the director shall furnish to the public agency
22 information contained in the files of the ~~Department~~ Division of Workforce
23 Services with respect to any individual specified in the request as to
24 whether the individual is receiving, has received, or has made application
25 for unemployment compensation, the date the individual was determined
26 eligible or ineligible, the date the individual's claim was exhausted, the
27 weekly benefit amount actually paid and the date paid, the individual's
28 weekly benefit amount, whether the individual is receiving or has received
29 wages, the name and address of the employer from whom the wages have been
30 received and the amount of any wages received by the individual, the current
31 or most recent home address of the individual, whether the individual has
32 refused an offer of employment, and, if so, a description of the employment
33 so offered, including, but not limited to, the terms, conditions, and rate of
34 pay therefor.

35 (B) The requesting agency shall reimburse the ~~Department~~
36 Division of Workforce Services for costs incurred in providing the requested

1 information.

2

3 SECTION 210. Arkansas Code § 11-10-314(e)(3) and (4), concerning the
4 release of wage information to other state agencies, and the disclosure of
5 information under the Department of Workforce Services Law, are amended to
6 read as follows:

7 (3) Information requested by the Department of Human Services
8 and the Department of Finance and Administration under this subsection shall
9 be released to the appropriate divisions of the respective departments on a
10 basis in accordance with a plan to be developed between the appropriate
11 division of each department and the ~~Department~~ Division of Workforce
12 Services.

13 (4)(A) In addition to the above, wage information contained in
14 the records of the ~~Department~~ Division of Workforce Services shall be made
15 available to the extent necessary for purposes of determining an individual's
16 eligibility for aid or services or the amount of the aid or services to which
17 an individual may be entitled under a state plan for aid and services to
18 needy families with children approved under Part A of Title IV of the Social
19 Security Act to a state or political subdivision thereof charged with the
20 responsibility of making the determinations when the information is
21 specifically requested on an individual by name and Social Security number by
22 the state or political subdivision for those purposes.

23 (B) The governmental agency or entity requesting any
24 information under this subsection shall reimburse the ~~Department~~ Division of
25 Workforce Services for any and all costs incurred by the agency in making the
26 requested information available.

27

28 SECTION 211. Arkansas Code § 11-10-314(e)(5)(B), concerning the
29 disclosure of information to federal entities under the Department of
30 Workforce Services Law, is amended to read as follows:

31 (B) The requesting agency shall reimburse the ~~Department~~
32 Division of Workforce Services for the costs incurred in providing the
33 requested information.

34

35 SECTION 212. Arkansas Code § 11-10-314(f)(1)(A), concerning the
36 examination of records by the parties and the disclosure of information under

1 the Department of Workforce Services Law, is amended to read as follows:

2 (f)(1)(A)(i) All records, files, and documents of the ~~Department~~
3 Division of Workforce Services pertaining to claims, benefit payments,
4 assessments, contributions, disqualifications for benefits, removals of
5 disqualifications for benefits, charges and credits to accounts, and
6 classification of employers, wherever located, which relate in any way to an
7 employer or an employee of the employer shall be made available at all times
8 for examination by an affected employer, a claimant, or the duly authorized
9 representative of an employer or a claimant.

10 (ii) But no record, file, or document shall be
11 removed from the custody of the ~~Department~~ Division of Workforce Services.

12

13 SECTION 213. Arkansas Code § 11-10-314(f)(2), concerning the
14 application of res judicata to findings of the Department of Workforce
15 Services and the disclosure of information under the Department of Workforce
16 Services Law, is amended to read as follows:

17 (2) No finding of fact or conclusion of law contained in a
18 decision of the ~~Department~~ Division of Workforce Services, an appeals hearing
19 officer, the Board of Review, or a court obtained under this chapter shall
20 have a preclusive effect in any other action or proceeding except proceedings
21 under this chapter.

22

23 SECTION 214. Arkansas Code § 11-10-314(h), concerning the disclosure
24 of information pursuant to federal law and under the Department of Workforce
25 Services Law, is amended to read as follows:

26 (h)(1) Notwithstanding any other provisions of this chapter,
27 information obtained in the administration of this chapter and in the
28 administration of and concerning programs under the Workforce Innovation and
29 Opportunity Act, Pub. L. No. 113-128, programs by the ~~Department~~ Division of
30 Workforce Services shall be made available to persons and agencies for
31 purposes appropriate to the ~~Department~~ Division of Workforce Services'
32 operation and administration of programs under the Workforce Innovation and
33 Opportunity Act, Pub. L. No. 113-128.

34 (2) Under an agreement between the ~~Department~~ Division of
35 Workforce Services and the appropriate agencies, the director shall establish
36 safeguards as are necessary to protect the confidential information made

1 available pursuant to this section.

2

3 SECTION 215. Arkansas Code § 11-10-314(i)(1)(B), concerning documents
4 received into evidence and the disclosure of information under the Department
5 of Workforce Services Law, is amended to read as follows:

6 (B) Photocopies of ~~Department~~ Division of Workforce
7 Services records containing the information shall be received in evidence in
8 any court or administrative proceeding had under the law provided that the
9 copies have been sealed with the official seal of the director.

10

11 SECTION 216. Arkansas Code § 11-10-314(j)(5)(B), concerning the
12 disclosure of information to the Arkansas Department of Transportation under
13 the Department of Workforce Services Law, is amended to read as follows:

14 (B) Other information that is necessary for the effective
15 operation of their respective programs in order to allow cooperation between
16 the Arkansas Department of Transportation and the ~~Department~~ Division of
17 Workforce Services; and

18

19 SECTION 217. Arkansas Code § 11-10-314(j)(6), concerning disclosure of
20 information obtained by the Director of the Department of Workforce Services,
21 is amended to read as follows:

22 (6) The ~~Arkansas Department~~ Division of Environmental Quality
23 may be provided the employer's name, mailing address, business location in
24 Arkansas, the current number of employees, and the code for each employer
25 classified by the agency in the Standard Industrial Classification Code or an
26 equivalent classification code under the North American Industry
27 Classification System.

28

29 SECTION 218. Arkansas Code § 11-10-314(k)(3) and (4), concerning
30 restrictions on the re-disclosure of information under the Department of
31 Workforce Services Law, are amended to read as follows:

32 (3) The governmental agency or entity requesting any information
33 under subsection (j) of this section shall reimburse the ~~Department~~ Division
34 of Workforce Services for any and all costs incurred by the agency in making
35 the requested information available.

36 (4) Information requested by the state entities specified in

1 subsection (j) of this section shall be released to the appropriate entities
2 in accordance with agreements between these entities and the ~~Department~~
3 Division of Workforce Services.
4

5 SECTION 219. Arkansas Code § 11-10-314(1), concerning the use of wage
6 statements in calculating child support obligations and the disclosure of
7 information under the Department of Workforce Services Law, is amended to
8 read as follows:

9 (1)(1) Upon receipt of an order from a court of record of this state
10 by the director for information pertaining to an individual's current wage
11 file and unemployment benefit payment record as contained in the records of
12 the ~~Department~~ Division of Workforce Services, the information shall be made
13 available to the court for the purpose of determining an amount of support to
14 be set during a proceeding for the establishment or collection of child
15 support obligations, or both.

16 (2) A photocopy of the records containing the information or a
17 statement that no information for the requested individual is contained in
18 the file of the ~~Department~~ Division of Workforce Services under the official
19 seal of the director shall be received into evidence in the court of record.

20 (3) The court order shall be satisfied by mailing the document
21 under seal directly to the court of record within ten (10) working days of
22 receipt of the court order unless a motion challenging the information is
23 filed or a subpoena is issued requiring the appearance of an employee of the
24 ~~Department~~ Division of Workforce Services with the court within thirty (30)
25 days prior to the trial.

26 (4) The director shall comply with the court order for
27 information if the following conditions are met:

28 (A) The order is delivered at least ten (10) workdays
29 prior to the date that the information is required;

30 (B) The court order includes the name and Social Security
31 number of the individual for whom information is requested; and

32 (C) The court order is accompanied by the payment of ten
33 dollars (\$10.00) by the moving party seeking the information to the
34 ~~Department~~ Division of Workforce Services for costs associated with producing
35 the information.

36 (5) Provided, however, the ~~Department~~ Division of Workforce

1 Services may not release information under this subsection if the United
2 States Secretary of Labor rules that release of the information would be
3 grounds to find that the state is in substantial noncompliance with 42 U.S.C.
4 § 503 or 26 U.S.C. § 3304.

5

6 SECTION 220. Arkansas Code § 11-10-314(m)(2), concerning restrictions
7 on re-disclosure of information under the Department of Workforce Services
8 Law, is amended to read as follows:

9 (2) The State Insurance Department shall be strictly prohibited
10 from making any disclosure or ~~redisclosure~~ re-disclosure of any record
11 containing confidential information provided by the ~~Department~~ Division of
12 Workforce Services under this subsection.

13

14 SECTION 221. Arkansas Code § 11-10-314(n)(1), concerning the
15 disclosure of information to the Workers' Compensation Commission under the
16 Department of Workforce Services Law, is amended to read as follows:

17 (n)(1) ~~Beginning on and after January 1, 1995, the~~ The Workers' Health
18 and Safety Division of the Workers' Compensation Commission may be furnished,
19 for production of the extra-hazardous employer identification formula, the
20 following data to the extent that such data is maintained in the ~~department's~~
21 Division of Workforce Services' computer database:

22

(A) Employer name;

23

(B) Federal employer identification number;

24

(C) Employer address and plant locations in Arkansas;

25

(D) Employer telephone number;

26

(E) Employer standard industrial classification code;

27

(F) Maximum number of employees by calendar year;

28

(G) Unemployment insurance account number; and

29

(H) Reporting unit number.

30

(2)(A) The Workers' Health and Safety Division shall be strictly
31 prohibited from making any disclosure or ~~redisclosure~~ re-disclosure of the
32 confidential information which may be made available to it under this
33 subsection.

34

(B) Additionally, the Workers' Health and Safety Division
35 shall reimburse the ~~Department~~ Division of Workforce Services for any and all
36 costs incurred by the ~~Department~~ Division of Workforce Services in making the

1 information available.

2

3 SECTION 222. Arkansas Code § 11-10-314(o)(3), concerning compliance
4 with federal law and the disclosure of information under the Department of
5 Workforce Services Law, is amended to read as follows:

6 (3) Information requested pursuant to Pub. L. No. 104-193 shall
7 only be released in accordance with an agreement between the ~~Department~~
8 Division of Workforce Services and the appropriate state or federal agency.
9 Safeguards protecting the confidentiality of such data and reimbursement of
10 costs for providing such information will be made part of the agreement.

11

12 SECTION 223. Arkansas Code § 11-10-314(q), concerning the disclosure
13 of information to the State Insurance Department under the Department of
14 Workforce Services Law, is amended to read as follows:

15 (q) The Workers' Compensation Fraud Investigation Unit of the State
16 Insurance Department may be furnished pursuant to a subpoena any individual's
17 wage file and unemployment benefit payment record as contained in the records
18 of the ~~Department~~ Division of Workforce Services. These records are being
19 provided for the sole purpose of investigating potential workers'
20 compensation fraud. The unit is strictly prohibited from making any
21 disclosure or ~~redisclosure~~ re-disclosure of the confidential information
22 which may be made available to it under the provisions of this subsection.
23 However, records provided to the unit pursuant to this subsection may be made
24 part of a unit's referral for criminal charges to a local prosecutor under §
25 11-9-106(d)(3) and used in any resulting criminal trial or prosecution,
26 including cases tried by employees of the unit under the provisions of § 11-
27 9-106(e)(2). Reasonable costs may be required for producing the subpoenaed
28 information.

29

30 SECTION 224. Arkansas Code § 11-10-314(r)(1)-(3), concerning the
31 disclosure of information for law enforcement purposes under the Department
32 of Workforce Services Law, are amended to read as follows:

33 (r)(1) The director, pursuant to a valid subpoena issued by a state
34 prosecuting attorney, the Attorney General, a United States Attorney, a
35 United States Magistrate Judge, or the Federal Bureau of Investigation, may
36 release information in the possession of the ~~Department~~ Division of Workforce

1 Services to law enforcement officials who seek unemployment information for
2 the investigation or prosecution of a crime or to enforce an order of a court
3 in a criminal matter.

4 (2) Nothing in this section shall be deemed to prohibit the
5 ~~Department~~ Division of Workforce Services from providing information
6 subpoenaed by the Attorney General in any case.

7 (3)(A) The director may release information in the possession of
8 the ~~Department~~ Division of Workforce Services to federal public officials in
9 the performance of their official duties acting through the United States
10 Attorney's office.

11 (B) The information will be disclosed under an information
12 exchange agreement with the United States Attorney's office, which will
13 ensure the protection of the confidentiality of the information and the cost
14 of providing the information.

15
16 SECTION 225. Arkansas Code § 11-10-314(r)(4)(B), concerning the
17 obligation to comply with subpoenas and the disclosure of information under
18 the Department of Workforce Services Law, is amended to read as follows:

19 (B) Honor the subpoena and subpoenas dealing with similar
20 subject matter, but only if a court of competent jurisdiction finds that the
21 need to examine the subpoenaed information outweighs the express policy of
22 maintaining confidentiality in matters involving individuals and employers
23 dealing with the ~~Department~~ Division of Workforce Services.

24
25 SECTION 226. Arkansas Code § 11-10-315 is amended to read as follows:

26 11-10-315. Authority to administer oaths, issue subpoenas, etc.

27 In the discharge of the duties imposed by this chapter, the Director of
28 the ~~Department~~ Division of Workforce Services, the chair of an appeal
29 tribunal, the members of the Board of Review, and any duly authorized
30 representative of any of them shall have power to administer oaths and
31 affirmations, take depositions, certify to official acts, and issue subpoenas
32 to compel the attendance of witnesses and the production of books, papers,
33 correspondence, memoranda, and other records deemed necessary as evidence in
34 connection with disputed claims or the administration of this chapter.

35
36 SECTION 227. Arkansas Code § 11-10-316(a), concerning the refusal to

1 obey a subpoena, is amended to read as follows:

2 (a) In case of contumacy by or refusal to obey a subpoena issued to
3 any person, any court of this state within the jurisdiction of which the
4 inquiry is carried on or within the jurisdiction of which the person guilty
5 of contumacy or refusal to obey is found or resides or transacts business,
6 upon application by the Director of the ~~Department~~ Division of Workforce
7 Services, the Board of Review, the chair of an appeal tribunal, or any duly
8 authorized representative of any of them shall have jurisdiction to issue to
9 the person an order requiring the person to appear before the director, the
10 board, the chair of an appeal tribunal, or any duly authorized representative
11 of any of them, there to produce evidence if so ordered or there to give
12 testimony touching the matter under investigation or in question, and any
13 failure to obey the order of the court may be punished by the court as a
14 contempt thereof.

15

16 SECTION 228. Arkansas Code § 11-10-317(a), concerning the protection
17 against self-incrimination, is amended to read as follows:

18 (a) No person shall be excused from attending and testifying or from
19 producing books, papers, correspondence, memoranda, and other records before
20 the Director of the ~~Department~~ Division of Workforce Services, the Board of
21 Review, the chair of an appeal tribunal, or any duly authorized
22 representative of any of them or in obedience to the subpoena of any of them
23 in any cause or proceeding before the director, the board, or an appeal
24 tribunal on the ground that the testimony or evidence, documentary or
25 otherwise, required of him or her may tend to incriminate him or her or
26 subject him or her to a penalty or forfeiture.

27

28 SECTION 229. Arkansas Code § 11-10-318(a)(1), concerning the
29 responsibilities of the employing unit, is amended to read as follows:

30 (a)(1) Each employing unit shall keep true and accurate work records,
31 for such periods of time and containing such information as the Director of
32 the ~~Department~~ Division of Workforce Services may prescribe.

33

34 SECTION 230. Arkansas Code § 11-10-319(a), concerning representation
35 in court of the Department of Workforce Services, is amended to read as
36 follows:

1 (a) Civil Actions. In any civil action to enforce the provisions of
2 this chapter, the Director of the ~~Department~~ Division of Workforce Services,
3 the Board of Review, and the state may be represented by any qualified
4 attorney who is employed by the director and is designated by him or her for
5 this purpose or at the director's request by the Attorney General.

6
7 SECTION 231. Arkansas Code § 11-10-320(b), concerning the creation of
8 the Employment Security Administration Fund, is amended to read as follows:

9 (b) All money deposited or paid into this fund shall be continuously
10 available to the Director of the ~~Department~~ Division of Workforce Services
11 for expenditure in accordance with the provisions of this chapter and shall
12 not lapse at any time or be transferred to any other fund.

13
14 SECTION 232. Arkansas Code § 11-10-321(b), concerning disbursement
15 from the Employment Security Administration Fund, is amended to read as
16 follows:

17 (b) Disbursements shall be paid out of the fund on requisitions drawn
18 by the Director of the ~~Department~~ Division of Workforce Services under
19 regulations of the director.

20
21 SECTION 233. Arkansas Code § 11-10-322(b), concerning reimbursement of
22 the Employment Security Administration Fund, is amended to read as follows:

23 (b) Upon receipt of such a finding by the United States Secretary of
24 Labor, the Director of the ~~Department~~ Division of Workforce Services shall
25 promptly report the amount required for the replacement to the Governor, and
26 the Governor shall, at the earliest opportunity, submit to the General
27 Assembly a request for the appropriation of that amount.

28
29 SECTION 234. Arkansas Code § 11-10-402 is amended to read as follows:

30 11-10-402. Termination.

31 Except as otherwise provided in § 11-10-403, an employing unit may
32 cease to be an employer subject to this chapter in accordance with the
33 regulations of the Director of the ~~Department~~ Division of Workforce Services.

34
35 SECTION 235. Arkansas Code § 11-10-403(a)(1), concerning a written
36 election from an employing unit, is amended to read as follows:

1 (a)(1) An employing unit, not otherwise subject to this chapter, which
2 filed with the Director of the ~~Department~~ Division of Workforce Services its
3 written election to become an employer subject hereto for not less than two
4 (2) calendar years shall, with the written approval of the election by the
5 director, become an employer subject hereto to the same extent as all other
6 employers, as of the date stated in the approval.

7
8 SECTION 236. Arkansas Code § 11-10-404(a)(1)(B), concerning nonprofit
9 employers, is amended to read as follows:

10 (B) Election is to be made by filing with the Director of
11 the ~~Department~~ Division of Workforce Services a notice of the election at
12 least thirty (30) days prior to the effective date of the election.

13
14 SECTION 237. Arkansas Code § 11-10-501(b), concerning payments from
15 the Unemployment Compensation Fund, is amended to read as follows:

16 (b) All benefits shall be paid through ~~Department~~ Division of
17 Workforce Services offices, in accordance with such regulations as the
18 Director of the ~~Department~~ Division of Workforce Services may prescribe.

19
20 SECTION 238. Arkansas Code § 11-10-502(e), concerning the weekly
21 benefit amount for unemployment payments, is amended to read as follows:

22 (e) On June 1 of each year, the Director of the ~~Department~~ Division of
23 Workforce Services shall determine the average weekly wage for insured
24 employment for the preceding calendar year in the following manner:

25 (1) The sum of the total monthly employment reported for the
26 calendar year shall be divided by twelve (12) to determine the average
27 monthly employment;

28 (2) The sum of the total wages reported for the previous
29 calendar year shall be divided by the average monthly employment to determine
30 the average annual wage; and

31 (3) The average annual wage shall be divided by fifty-two (52)
32 to determine the average weekly wage for insured employment.

33
34 SECTION 239. Arkansas Code § 11-10-505(a)(2)(B), concerning the
35 failure of a base-period employer to respond, is amended to read as follows:

36 (B) The Director of the ~~Department~~ Division of Workforce

1 Services may accept the statement given by the claimant as his or her reason
2 for separation from the base-period employer and may base his or her
3 determination on the statement given by the claimant.
4

5 SECTION 240. Arkansas Code § 11-10-505(c), concerning the failure of a
6 base-period employer to respond, is amended to read as follows:

7 (c) ~~On or before January 1, 2012, the~~ The director shall make
8 available on the website of the ~~Department~~ Division of Workforce Services a
9 program that will allow employers the option to receive and respond to notice
10 under this section.
11

12 SECTION 241. Arkansas Code § 11-10-506(a)(2)(A), concerning seasonal
13 employment and benefit rights, is amended to read as follows:

14 (2)~~(A)~~ After a study of previous employment records, and after
15 investigation and hearing, the Director of the ~~Department~~ Division of
16 Workforce Services shall determine the normal seasonal period or periods
17 during which workers are ordinarily employed for the purpose of carrying on
18 seasonal operations in each seasonal industry. Until the determination by the
19 director, no industry shall be deemed to be seasonal. The director may
20 initiate a study of an industry upon his or her own motion or upon a request
21 filed with the director by any employing unit or person that would be
22 affected by any determination made as a result of such a study. If a study is
23 made, it shall be mandatory for the director to make his or her determination
24 and report thereon within ninety (90) days after written application for the
25 determination has been filed. If the director initiates the study of an
26 industry upon his or her own motion and finds that the industry meets the
27 seasonal requirements set forth in this section, he or she shall make his or
28 her determination and report within ninety (90) days after the study is
29 initiated. In either event, the industry shall be classified as a seasonal
30 industry effective on the January 1 immediately following the date of the
31 director's determination. Provided that, any employer who is classified as a
32 seasonal employer under these provisions may make a written request to the
33 director asking not to be treated as a seasonal employer. If the request is
34 approved, treatment as a seasonal employer will cease effective January 1 of
35 the following calendar year.
36

1 SECTION 242. The introductory language of Arkansas Code § 11-10-507,
2 concerning the registration and reporting required for eligibility for
3 benefits, is amended to read as follows:

4 An insured worker shall be eligible to receive benefits with respect to
5 any week only if the Director of the ~~Department~~ Division of Workforce
6 Services finds that:

7
8 SECTION 243. Arkansas Code § 11-10-507(2), concerning the registration
9 and reporting required for eligibility for benefits, is amended to read as
10 follows:

11 (2) Registration and Reporting. He or she has registered for
12 work at and thereafter continued to report to a ~~Department~~ Division of
13 Workforce Services office in accordance with such regulations as the director
14 may prescribe. The director, by regulation, may waive or alter either or both
15 of the requirements of this subdivision (2) as to individuals attached to
16 regular jobs and as to such other types of cases or situations with respect
17 to which he or she finds that compliance with these requirements would be
18 oppressive or would be inconsistent with the purpose of this chapter.
19 However, no such regulations shall conflict with § 11-10-501;

20
21 SECTION 244. Arkansas Code § 11-10-507(3)(E), concerning registration
22 by employees who will be recalled by the employer, and the registration and
23 reporting required for eligibility for benefits, is amended to read as
24 follows:

25 (E) An individual on short-term layoff who expects to be
26 recalled by his or her employer to a full-time job and whose employer intends
27 to recall the individual to a full-time job within ten (10) weeks after the
28 initial date of his or her layoff shall not be required during the layoff to
29 register for work at a ~~department~~ division office or to seek other work.

30
31 SECTION 245. Arkansas Code § 11-10-508(a), concerning the eligibility
32 for benefits in a labor dispute, is amended to read as follows:

33 (a) If so found by the Director of the ~~Department~~ Division of
34 Workforce Services, no individual may serve a waiting period or be paid
35 benefits for the duration of any period of unemployment if he or she lost his
36 or her employment or has left his or her employment by reason of a labor

1 dispute other than a lockout at the factory, establishment, or other premises
2 at which he or she was employed, regardless of whether or not the labor
3 dispute causes any reduction or cessation of operations at the factory,
4 establishment, or other premises of the employer, as long as the labor
5 dispute continues, and thereafter for such reasonable period of time, if any,
6 as may be necessary for that factory, establishment, or other premises to
7 resume normal operation.

8
9 SECTION 246. Arkansas Code § 11-10-513(a)(1), concerning
10 disqualification for voluntarily leaving work, is amended to read as follows:

11 (a)(1) If so found by the Director of the ~~Department~~ Division of
12 Workforce Services, an individual shall be disqualified for benefits if he or
13 she voluntarily and without good cause connected with the work left his or
14 her last work.

15
16 SECTION 247. Arkansas Code § 11-10-514(a)(1), concerning
17 disqualification and discharge for misconduct, is amended to read as follows:

18 (a)(1) If so found by the Director of the ~~Department~~ Division of
19 Workforce Services, an individual shall be disqualified for benefits if he or
20 she is discharged from his or her last work for misconduct in connection with
21 the work.

22
23 SECTION 248. Arkansas Code § 11-10-515(a)(1)(A), concerning
24 disqualification for failure or refusal to apply for or accept suitable work,
25 is amended to read as follows:

26 (a)(1)(A) If so found by the Director of the ~~Department~~ Division of
27 Workforce Services, an individual shall be disqualified for benefits if he or
28 she has failed without good cause:

29 (i) To apply for available suitable work when so
30 directed by a ~~Department~~ Division of Workforce Services office; or

31 (ii) To accept suitable work when offered.

32
33 SECTION 249. Arkansas Code § 11-10-516(a), concerning the
34 disqualification for refusal to report after a layoff, is amended to read as
35 follows:

36 (a)(1) If so found by the Director of the ~~Department~~ Division of

1 Workforce Services, an individual shall be disqualified for benefits if while
2 on a layoff of ten (10) weeks or less, he or she refuses to report for work
3 within one (1) week after notice of recall to the same job or to a suitable
4 job similar to the one from which he or she was laid off, or if while
5 unemployed, he or she voluntarily removes his or her name from a recall list
6 set forth in a written contract of a base-period employer, provided that the
7 employer files a written notice of the refusal of recall or removal from a
8 recall list with the ~~Department~~ Division of Workforce Services within seven
9 (7) days of the occurrence.

10 (2) The disqualification shall begin on the date of receipt of
11 the written notice of refusal of recall or removal from the recall list by
12 the ~~department~~ division and shall continue until, subsequent to filing his or
13 her claim, he or she has had at least thirty (30) days of employment covered
14 by an unemployment compensation law of this state, or another state, or of
15 the United States.

16
17 SECTION 250. The introductory language to Arkansas Code § 11-10-517,
18 concerning the disqualification for the receipt of other remunerations, is
19 amended to read as follows:

20 If so found by the Director of the ~~Department~~ Division of Workforce
21 Services, an individual shall be disqualified for benefits for any week with
22 respect to which he or she receives or has received remuneration in the form
23 of:

24
25 SECTION 251. Arkansas Code § 11-10-517(1)(B)(ii)(b), concerning the
26 allocation of benefits and the disqualification for the receipt of other
27 remunerations, is amended to read as follows:

28 (b) If the employer does not specify the
29 number of weeks under subdivision (1)(B)(ii)(a) of this section, the
30 ~~Department~~ Division of Workforce Services shall allocate the separation pay
31 using the claimant's average weekly wage;

32
33 SECTION 252. The introductory language of Arkansas Code § 11-10-
34 519(a), concerning the penalty of disqualification for a false statement or
35 misrepresentation, is amended to read as follows:

36 (a) If so found by the Director of the ~~Department~~ Division of

1 Workforce Services, an individual shall be disqualified for benefits:

2
3 SECTION 253. Arkansas Code § 11-10-519(b), concerning the penalty of
4 disqualification for a false statement or misrepresentation, is amended to
5 read as follows:

6 (b) Upon request of the Legislative Council, the ~~Department~~ Division
7 of Workforce Services shall provide reports regarding unemployment insurance
8 claim fraud and its efforts to prevent the fraud.

9
10 SECTION 254. Arkansas Code § 11-10-520(a), concerning claims and the
11 posting of information by an employer, is amended to read as follows:

12 (a) Each employer shall post and maintain, in places readily
13 accessible to individuals in the employer's employ, printed statements
14 concerning benefit rights, claims for benefits, and such other matters
15 relating to the administration of this chapter as the Director of the
16 ~~Department~~ Division of Workforce Services may by regulation prescribe.

17
18 SECTION 255. Arkansas Code § 11-10-521(a), concerning claims, filings,
19 and the notice to the last employer, is amended to read as follows:

20 (a) Claims for benefits shall be made in accordance with regulations
21 the Director of the ~~Department~~ Division of Workforce Services prescribes.

22
23 SECTION 256. Arkansas Code § 11-10-521(c), concerning claims, filings,
24 and the notice to the last employer, is amended to read as follows:

25 (c) On or before January 1, 2012, the director shall make available on
26 the website of the ~~Department~~ Division of Workforce Services a program that
27 will allow employers the option to receive and respond to notice under this
28 section.

29
30 SECTION 257. Arkansas Code § 11-10-522(a)(1)(A), concerning the
31 determination of a claim, is amended to read as follows:

32 (1)(A) A monetary determination upon a claim filed pursuant to §
33 11-10-521(a) shall be made promptly by the Director of the ~~Department~~
34 Division of Workforce Services and shall include total wage credits as
35 reported paid by each employer during the claimant's base period and the
36 identity of each base-period employer.

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SECTION 258. Arkansas Code § 11-10-523(f), concerning the payment of expenses for the Board of Review, is amended to read as follows:

(f) The chair, the members, and the examiner and reporter, as provided for above, shall all receive their actual and necessary expenses incurred, in accordance with the regulations of the ~~Department~~ Division of Workforce Services.

SECTION 259. Arkansas Code § 11-10-523(g)(2)(C), concerning facilities for the Board of Review, is amended to read as follows:

(C) The Director of the ~~Department~~ Division of Workforce Services shall provide the board and appeal tribunals with proper facilities and assistance for the execution of their functions.

SECTION 260. Arkansas Code § 11-10-524(a), concerning appeals from the decisions of the Board of Review, is amended to read as follows:

(a)(1) The claimant, the Director of the ~~Department~~ Division of Workforce Services, or any other party entitled to notice may appeal a determination made by the agency by filing a written notice of appeal with the appeal tribunal or at any office of the ~~Department~~ Division of Workforce Services within twenty (20) calendar days after the date of mailing the notice to his or her last known address, or if the notice is not mailed, within twenty (20) calendar days after the date of delivery of the notice. If mailed, an appeal shall be considered to have been filed as of the date of the postmark on the envelope.

(2) However, if it is determined by the appeal tribunal or the Board of Review ~~of the department~~ that the appeal is not perfected within the twenty-calendar-day period as a result of circumstances beyond the appellant's control, the appeal may be considered as having been filed timely.

SECTION 261. Arkansas Code § 11-10-526(a)(2), concerning the procedures adopted by the Board of Review, is amended to read as follows:

(2) In like manner as provided at § 11-10-307(a) for the adopting, amending, or rescinding of general rules by the Director of the ~~Department~~ Division of Workforce Services, the board may adopt reasonable

1 regulations governing the manner of filing appeals, the conduct of hearings,
2 and other appellate procedures, consistent with this chapter.

3
4 SECTION 262. Arkansas Code § 11-10-527(a), concerning the claims and
5 conclusiveness of determinations and decisions by the Board of Review, is
6 amended to read as follows:

7 (a) Except insofar as reconsideration of any determination is had
8 under the provisions of § 11-10-522, any right, fact, or matter in issue,
9 directly passed upon or necessarily involved in a determination or
10 redetermination that has become final, or in a decision on appeal under §§
11 11-10-523 – 11-10-530 that has become final, shall be conclusive for all the
12 purposes of this chapter as between the Director of the ~~Department~~ Division
13 of Workforce Services, the claimant, and all employing units who had notice
14 of the determination, redetermination, or decision.

15
16 SECTION 263. Arkansas Code § 11-10-528(a), concerning the finality of
17 decisions of the Board of Review, is amended to read as follows:

18 (a) The final decisions of the Board of Review or of an appeal
19 tribunal, and the principles of law declared by it in arriving at the
20 decisions, unless expressly or impliedly overruled by a later decision of the
21 board or by a court of competent jurisdiction, shall be binding upon the
22 Director of the ~~Department~~ Division of Workforce Services and any examiner or
23 appeal tribunal in subsequent proceedings which involve similar questions of
24 law.

25
26 SECTION 264. Arkansas Code § 11-10-529(a)(2)(B), concerning petitions
27 for review, claims, and judicial review of decisions of the Board of Review,
28 is amended to read as follows:

29 (B) The Director of the ~~Department~~ Division of Workforce
30 Services is made a party to the proceedings.

31
32 SECTION 265. Arkansas Code § 11-10-530(a), concerning claims,
33 representation, and administrative appeals regarding a claim for benefits,
34 is amended to read as follows:

35 (a) The Director of the ~~Department~~ Division of Workforce Services
36 shall be a party entitled to notice in any proceeding involving a claim for

1 benefits before a special examiner, an appeal tribunal, or the Board of
2 Review.

3

4 SECTION 266. Arkansas Code § 11-10-532(a)(1), concerning claims,
5 recovery, and repayment to the Unemployment Compensation Fund, is amended to
6 read as follows:

7 (a)(1) If the Director of the ~~Department~~ Division of Workforce
8 Services finds that a person knowingly has made a false statement or
9 misrepresentation of a material fact or knowingly has failed to disclose a
10 material fact and as a result of either action has received benefits under
11 this chapter to which he or she was not entitled, then he or she is liable to
12 repay the amount to the Unemployment Compensation Fund, or the director may
13 recover the amount of the overpayment by deductions from any future benefits
14 payable to the person under this chapter.

15

16 SECTION 267. Arkansas Code § 11-10-532(d)(4), concerning claims,
17 recovery, and repayment to the Unemployment Compensation Fund, is amended to
18 read as follows:

19 (4) An interest payment recovered from an overpayment to a
20 claimant shall be deposited into the ~~Department~~ Division of Workforce
21 Services Special Fund.

22

23 SECTION 268. Arkansas Code § 11-10-532(f), concerning decisions by the
24 Department of Workforce Services, claims, recovery, and repayment to the
25 Unemployment Compensation Fund, is amended to read as follows:

26 (f) The ~~Department~~ Division of Workforce Services may issue an
27 overpayment determination contemporaneously with any other determination.

28

29 SECTION 269. Arkansas Code § 11-10-533(a), concerning the
30 investigation of claims filed by state employees, is amended to read as
31 follows:

32 (a) The ~~Department~~ Division of Workforce Services shall investigate
33 all claims for benefits filed by state employees whether or not the employing
34 state agency lodges a protest to the payment of the benefits.

35

36 SECTION 270. Arkansas Code § 11-10-534(8)(A), concerning the

1 definition of "rate of insured unemployment" under the laws governing
2 unemployment benefits, is amended to read as follows:

3 (A) The average weekly number of individuals filing claims
4 for regular benefits in this state for weeks of unemployment with respect to
5 the most recent thirteen (13) consecutive week period, as determined by the
6 Director of the ~~Department~~ Division of Workforce Services on the basis of his
7 or her reports to the United States Secretary of Labor; by

8
9 SECTION 271. Arkansas Code § 11-10-535 is amended to read as follows:

10 11-10-535. Extended benefits – Effect of provisions relating to
11 regular benefits.

12 Except when the result would be inconsistent with the other provisions
13 of this section, as provided in the regulations of the Director of the
14 ~~Department~~ Division of Workforce Services, the provisions of this chapter
15 which apply to claims for, or the payment of, regular benefits shall apply to
16 claims for, and the payment of, extended benefits.

17
18 SECTION 272. The introductory language of Arkansas Code § 11-10-536,
19 concerning edibility for extended benefits, is amended to read as follows:

20 An individual shall be eligible to receive extended benefits with
21 respect to any week of unemployment in his or her eligibility period only if
22 the Director of the ~~Department~~ Division of Workforce Services finds that with
23 respect to that week:

24
25 SECTION 273. Arkansas Code § 11-10-539(a), concerning extended
26 benefits, periods, and computations, is amended to read as follows:

27 (a) Whenever an extended benefit period is to become effective in this
28 state as a result of a state "on" indicator or an extended benefit period is
29 to be terminated in this state as a result of a state "off" indicator, the
30 Director of the ~~Department~~ Division of Workforce Services shall have
31 published an appropriate notice in newspapers of general circulation in the
32 state.

33
34 SECTION 274. Arkansas Code § 11-10-541 is amended to read as follows:

35 11-10-541. Extended benefits – Overpayments.

36 The Director of the ~~Department~~ Division of Workforce Services shall

1 establish and recover extended benefit overpayments in the manner prescribed
2 in § 11-10-532.

3
4 SECTION 275. The introductory language of Arkansas Code § 11-10-
5 543(a), concerning the failure to accept or seek suitable work and extended
6 benefits, is amended to read as follows:

7 (a) Notwithstanding the provisions of § 11-10-535, an individual shall
8 be ineligible for payment of extended benefits for any week of unemployment
9 in his or her eligibility period if the Director of the ~~Department~~ Division
10 of Workforce Services finds that during that period:

11
12 SECTION 276. Arkansas Code § 11-10-543(i) and (j), concerning the
13 failure to accept or seek suitable work and extended benefits, are amended to
14 read as follows:

15 (i) The ~~Department~~ Division of Workforce Services shall enforce this
16 section.

17 (j) The director shall make quarterly reports to the Legislative
18 Council on the ~~department's~~ division's efforts to enforce this section,
19 including without limitation:

20 (1) The number of cases of benefit recipients accused of not
21 accepting valid job offers;

22 (2) The disposition of cases reported under subdivision (j)(1)
23 of this section; and

24 (3) The policies and steps the ~~department~~ division is taking to
25 eliminate and reduce refusals to accept valid job offers.

26
27 SECTION 277. Arkansas Code § 11-10-543(k), concerning electronic
28 reporting and the failure to accept or seek suitable work and extended
29 benefits, is amended to read as follows:

30 (k)(1) The ~~department~~ division shall facilitate electronic reporting
31 of a benefit recipient who refuses to take an offered job either through
32 outright refusal, failing a drug test, or other means.

33 (2) The ~~department~~ division may facilitate electronic reporting
34 under subdivision (k)(1) of this section by an easy-to-understand and -use
35 website created for the purpose or created for another purpose that
36 facilitates easy reporting by potential employers and others.

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SECTION 278. Arkansas Code § 11-10-543(1), concerning the failure to accept or seek suitable work and extended benefits, is amended to read as follows:

(1)(1) The ~~department~~ division shall notify periodically an employer regarding the method for reporting a benefit recipient who fails to take a job either through outright refusal, failing a drug test, or other means.

(2) The ~~department~~ division may notify an employer at least two times (2) per year regarding the method for reporting under subdivision (1)(1) of this section by electronic means that are economically feasible and may be a part of another communication to the employer.

SECTION 279. The introductory language of Arkansas Code § 11-10-544(a), concerning reciprocal arrangements with state and federal agencies, is amended to read as follows:

(a) The Director of the ~~Department~~ Division of Workforce Services is authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

SECTION 280. Arkansas Code § 11-10-601(2), concerning the definition of "approved plan" under the law regarding shared work plans, is amended to read as follows:

(2) "Approved plan" means an employer's voluntary written plan for reducing unemployment under which a specified group of employees shares the work remaining after their normal weekly hours of work are reduced, which plan meets the requirements of § 11-10-604, and which plan has been approved in writing by the Director of the ~~Department~~ Division of Workforce Services;

SECTION 281. Arkansas Code § 11-10-604(a), concerning the criteria for approval to participate in a shared work plan, is amended to read as follows:

(a) An employer wishing to participate in a shared work program shall submit a signed written shared work compensation plan to the Director of the ~~Department~~ Division of Workforce Services for approval.

SECTION 282. Arkansas Code § 11-10-605(a), concerning the approval or

1 rejection of a shared work plan, is amended to read as follows:

2 (a) The Director of the ~~Department~~ Division of Workforce Services
3 shall approve or reject a plan in writing within thirty (30) days of its
4 receipt.

5

6 SECTION 283. Arkansas Code § 11-10-606(a), concerning the effective
7 date and duration of a shared work plan, is amended to read as follows:

8 (a) A plan shall be effective on the date specified in the plan or on
9 a date mutually agreed upon by the employer and the Director of the
10 ~~Department~~ Division of Workforce Services but no earlier than the date of
11 approval of the plan by the director.

12

13 SECTION 284. Arkansas Code § 11-10-607(a)(1), concerning the
14 revocation of approval for a shared work plan, is amended to read as follows:

15 (a)(1) The Director of the ~~Department~~ Division of Workforce Services
16 may revoke approval of a plan for good cause.

17

18 SECTION 285. Arkansas Code § 11-10-608(a), concerning the modification
19 of an approved shared work plan, is amended to read as follows:

20 (a) An operational, approved, shared work plan may be modified by the
21 employer with the acquiescence of employee representatives if the
22 modification is not substantial and is in conformity with the plan approved
23 by the Director of the ~~Department~~ Division of Workforce Services, but the
24 modifications must be reported promptly to the director.

25

26 SECTION 286. The introductory language of Arkansas Code § 11-10-
27 609(a), concerning the eligibility for compensation under a shared work plan,
28 is amended to read as follows:

29 (a) An individual is eligible to receive shared work unemployment
30 compensation benefits with respect to any week only if, in addition to
31 monetary entitlement, the Director of the ~~Department~~ Division of Workforce
32 Services finds that:

33

34 SECTION 287. Arkansas Code § 11-10-610(d), concerning filing of claims
35 for shared work unemployment compensation, is amended to read as follows:

36 (d) Claims for shared work unemployment compensation benefits shall be

1 filed in the same manner as claims for unemployment compensation or as
2 prescribed in regulations by the Director of the ~~Department~~ Division of
3 Workforce Services.

4
5 SECTION 288. Arkansas Code § 11-10-701(a)(2), concerning the accrual
6 and payment by an employer of contributions, is amended to read as follows:

7 (2) The contributions shall become due and be paid by each
8 employer to the Director of the ~~Department~~ Division of Workforce Services for
9 the Unemployment Compensation Fund in accordance with such regulations as the
10 director may prescribe and shall not be deducted, in whole or in part, from
11 the wages of individuals in employment for the employer.

12
13 SECTION 289. Arkansas Code § 11-10-703(a)(1)(A), concerning the
14 maintenance of separate accounts, is amended to read as follows:

15 (a)(1)(A) The Director of the ~~Department~~ Division of Workforce
16 Services shall maintain a separate account for each employer and shall credit
17 the employer's account with all the contributions paid on the employer's own
18 behalf except as otherwise provided in §§ 11-10-701 – 11-10-715.

19
20 SECTION 290. Arkansas Code § 11-10-703(a)(6)(A), concerning the
21 repayment of an overpayment to a claimant, is amended to read as follows:

22 (A) An overpayment of benefits is the result of a failure
23 by an employer or the employer's agent to respond timely or adequately to a
24 request for information from the ~~Department~~ Division of Workforce Services;
25 and

26
27 SECTION 291. Arkansas Code § 11-10-704(a), concerning the fixing of
28 contribution rates, future rates, and experience rates, is amended to read as
29 follows:

30 (a) The Director of the ~~Department~~ Division of Workforce Services
31 shall, for each calendar year, classify employers in accordance with their
32 actual experience in the payment of contributions on their own behalf and
33 with respect to regular benefits charged against their accounts, with a view
34 to fixing the contribution rates as will reflect their experience.

35
36 SECTION 292. Arkansas Code § 11-10-705(c)(1)(B), concerning the annual

1 notices provided to employers, is amended to read as follows:

2 (B) The Director of the ~~Department~~ Division of Workforce
3 Services shall provide to each eligible employer an annual notice of
4 voluntary payment amounts that may be submitted to reduce the employer's
5 contribution rate.

6
7 SECTION 293. Arkansas Code § 11-10-706(f), concerning future rates and
8 the stabilization tax, is amended to read as follows:

9 (f)(1)(A) However, the proceeds of the stabilization tax in the amount
10 of two and one-half hundredths of one percent (0.025%) of taxable wages
11 collected during the period July 1, 2007, through June 30, 2019, shall be
12 deposited and credited to the ~~Department~~ Division of Workforce Services
13 Training Trust Fund, there to be used for worker training.

14 (B) The total amount deposited into the ~~Department~~
15 Division of Workforce Services Training Trust Fund in any one (1) fiscal year
16 shall not exceed two million five hundred thousand dollars (\$2,500,000).

17 (2)(A) However, the proceeds of the stabilization tax in the
18 amount of two and one-half hundredths of one percent (0.025%) of taxable
19 wages collected during the period July 1, 2007, through June 30, 2019, shall
20 be deposited and credited to the ~~Department~~ Division of Workforce Services
21 Unemployment Insurance Administration Fund, there to be used for personal
22 services and operating expenses of the unemployment insurance program
23 necessary for the proper administration of the ~~Department~~ Division of
24 Workforce Services Law, § 11-10-101 et seq., as determined by the Director of
25 the ~~Department~~ Division of Workforce Services.

26 (B)(i) The total amount deposited into the ~~Department~~
27 Division of Workforce Services Unemployment Insurance Administration Fund in
28 any one (1) fiscal year shall not exceed two million five hundred thousand
29 dollars (\$2,500,000).

30 (ii) If the amount deposited into the ~~Department~~
31 Division of Workforce Services Unemployment Insurance Administration Fund
32 under subdivision (f)(2)(B)(i) of this section is not sufficient to meet the
33 administrative needs under the ~~Department~~ Division of Workforce Services Law,
34 § 11-10-101 et seq., the ~~Department~~ Division of Workforce Services may
35 deposit up to an additional three million five hundred thousand dollars
36 (\$3,500,000) in any one (1) fiscal year to the ~~Department~~ Division of

1 Workforce Services Unemployment Insurance Administration Fund upon approval
2 by the Chief Fiscal Officer of the State.

3 (3) The director shall report to the Legislative Council on a
4 quarterly basis as to any and all uses of the ~~Department~~ Division of
5 Workforce Services Training Trust Fund and the ~~Department~~ Division of
6 Workforce Services Unemployment Insurance Administration Fund.

7
8 SECTION 294. Arkansas Code § 11-10-707(a)(2)(B), concerning the timing
9 and manner of voluntary elections made by an employer, is amended to read as
10 follows:

11 (B) A voluntary election by an employer shall be made at
12 the time and in the manner prescribed by regulations of the Director of the
13 ~~Department~~ Division of Workforce Services.

14
15 SECTION 295. Arkansas Code § 11-10-708(b)(4), concerning advance
16 interest tax and future rates, is amended to read as follows:

17 (4) All withdrawals shall be upon voucher warrants issued, or
18 caused to be issued, by the Director of the ~~Department~~ Division of Workforce
19 Services as authorized by legislative appropriation and, except as otherwise
20 provided herein, shall be used only for the purpose of:

21 (A) Paying interest incurred by the state on advances
22 obtained from the federal Unemployment Trust Fund under Title XII of the
23 Social Security Act;

24 (B) Making refunds of the aforementioned advance interest
25 tax and interest and penalty payments attributed to the advance interest tax
26 which were erroneously paid; and

27 (C) Returning moneys to the Unemployment Compensation Fund
28 Clearing Account that may have been incorrectly identified and erroneously
29 transferred to the Employment Security Advance Interest Trust Fund in the
30 State Treasury.

31
32 SECTION 296. Arkansas Code § 11-10-708(c)(2), concerning advance
33 interest tax and future rates, is repealed.

34 ~~(2) Notwithstanding any other provision of this section, all~~
35 ~~income from investment of the Employment Security Advance Interest Trust Fund~~
36 ~~earned during calendar years 1995 and 1996 shall be deposited and credited to~~

1 ~~the Department of Workforce Services Special Fund, § 19-5-984, as set out in~~
2 ~~§ 11-10-716.~~

3
4 SECTION 297. Arkansas Code § 11-10-710(a)(2), concerning the transfer
5 of experience, is amended to read as follows:

6 (2) The separate account of the predecessor employer shall be
7 transferred by the Director of the ~~Department~~ Division of Workforce Services
8 to the successor employing unit and, as of the date of the acquisition, shall
9 become the separate account or part of the separate account, as the case may
10 be, of the successor employing unit, and the regular benefits thereafter
11 chargeable to the predecessor employer on account of employment prior to the
12 date of the acquisition shall be charged to the separate account of the
13 successor employing unit.

14
15 SECTION 298. Arkansas Code § 11-10-711(a), concerning the temporary
16 closing of a business because of an absence in the armed forces, is amended
17 to read as follows:

18 (a) Notwithstanding any inconsistent provisions of this chapter, if
19 the Director of the ~~Department~~ Division of Workforce Services finds that an
20 employer's business was closed solely because of the entrance of one (1) or
21 more of the owners, officers, partners, or the majority stockholder into the
22 armed forces of the United States or any of its allies, or of the United
23 Nations after December 31, 1949, the employer's account shall, for experience
24 rating purposes, not be considered as terminated. If the business is resumed
25 by the employer within one (1) year after the discharge or release of the
26 person from active duty in the armed forces, the employer's experience shall
27 be deemed to have been continuous through the closed period.

28
29 SECTION 299. Arkansas Code § 11-10-712(a), concerning an employer
30 ceasing to pay wages, is amended to read as follows:

31 (a) Whenever an employer has paid no wages for a period of twelve (12)
32 consecutive calendar quarters following the latest calendar quarter that the
33 employer paid wages in employment, the Director of the ~~Department~~ Division of
34 Workforce Services shall terminate the employer's experience rating account
35 and shall destroy the records of the account.

36

1 SECTION 300. Arkansas Code § 11-10-713(c)(1), concerning the employees
2 of nonprofit organizations and governmental entities, is amended to read as
3 follows:

4 (c)(1) Any nonprofit organization or government employing unit which,
5 pursuant to § 11-10-210(a)(2) or (a)(3), is subject to this chapter shall pay
6 contributions under § 11-10-701 unless it elects, in accordance with this
7 subsection, to pay to the Director of the ~~Department~~ Division of Workforce
8 Services for the Unemployment Compensation Fund an amount equal to the amount
9 of regular benefits and, to the extent that the fund is not reimbursed for
10 the extended benefits in accordance with Section 204 of the Federal-State
11 Extended Unemployment Compensation Act of 1970, the extended benefits paid,
12 based on wages paid by the employer to individuals for weeks of unemployment
13 that begin during the effective period of the election.

14
15 SECTION 301. Arkansas Code § 11-10-713(d)(6)(A), concerning
16 overpayments to employees of nonprofit organizations and governmental
17 entities, is amended to read as follows:

18 (A) An overpayment of benefits is the result of a failure
19 by an employer or the employer's agent to respond timely or adequately to a
20 request for information from the ~~Department~~ Division of Workforce Services;
21 and

22
23 SECTION 302. Arkansas Code § 11-10-713(e)(1)(C), concerning payments
24 in lieu of contributions, is amended to read as follows:

25 (C) The ~~Department~~ Division of Workforce Services shall
26 bill and the Chief Fiscal Officer of the State shall promptly reimburse the
27 ~~department~~ division for such benefit payments in accordance with subsection
28 (d) of this section; and

29
30 SECTION 303. Arkansas Code § 11-10-716(a)(1), concerning the
31 collection of interest on past due contributions, is amended to read as
32 follows:

33 (a)(1) If contributions are not paid on the date on which they are due
34 and payable as prescribed by the Director of the ~~Department~~ Division of
35 Workforce Services, the whole or part thereafter remaining unpaid shall bear
36 interest at the rate of one and one-half percent (1.5%) per month from and

1 after the due date until payment is received by the director.

2

3 SECTION 304. Arkansas Code § 11-10-716(b)(1)(A), concerning the
4 transfer of interest and penalty payments on past due contributions, is
5 amended to read as follows:

6 (b)(1)(A) At the end of each month, deposits in the Unemployment
7 Compensation Fund Clearing Account which have been established as interest
8 and penalty payments collected pursuant to §§ 11-10-716 – 11-10-723 shall be
9 paid over to the Treasurer of State and credited by him or her to the
10 ~~Department~~ Division of Workforce Services Special Fund, § 19-5-984, created
11 and established in the State Treasury.

12

13 SECTION 305. Arkansas Code § 11-10-716(b)(1)(B)(iii), concerning the
14 allowable purposes for withdrawals, and the collection of interest on past
15 due contributions, is amended to read as follows:

16 (iii) Such other and additional purposes necessary
17 to the proper administration of this chapter as specifically provided in the
18 appropriation for the ~~Department~~ Division of Workforce Services.

19

20 SECTION 306. Arkansas Code § 11-10-717(a)(1)(A), concerning the
21 collection, failure to pay or report, and penalties, is amended to read as
22 follows:

23 (a)(1)(A) If, after due notice, any employer defaults in any payment
24 of contributions or interest thereon, the amount due may be collected by
25 civil action in the name of the Director of the ~~Department~~ Division of
26 Workforce Services.

27

28 SECTION 307. Arkansas Code § 11-10-717(c)(1)(B), concerning the
29 authority of the Department of Workfore Services to collect moneys owed, and
30 the failure to pay or report, and penalties, is amended to read as follows:

31 (B) The director is empowered to effect collection of
32 unemployment contributions, penalties, interest, benefit overpayments, court
33 costs, and reasonable attorney's fees due the ~~Department~~ Division of
34 Workforce Services in any jurisdiction that extends such comity.

35

36 SECTION 308. Arkansas Code § 11-10-718(b)(1)(B), concerning collection

1 and priorities under legal dissolutions or distributions, is amended to read
2 as follows:

3 (B)(i) The proceedings for enforcing the lien herein
4 provided for shall be brought in the name of the Director of the ~~Department~~
5 Division of Workforce Services.

6 (ii) All liens issued under this chapter by the
7 Director of the ~~Department~~ Division of Labor shall remain in full force and
8 effect and shall be fully enforceable by the Director of the ~~Department~~
9 Division of Workforce Services.

10

11 SECTION 309. Arkansas Code § 11-10-718(b)(3), concerning the validity
12 of liens, collection, and priorities under legal dissolutions or
13 distributions, is amended to read as follows:

14 (3) The lien shall not be valid against any mortgagee, pledgee,
15 purchaser, or judgment creditor until the certificate of assessment provided
16 for in § 11-10-720 has been filed with the clerk of the circuit court of the
17 county wherein the employer domiciles or has a place of business, or suit has
18 been filed by the Director of the ~~Department~~ Division of Workforce Services
19 in a court of competent jurisdiction under § 11-10-717.

20

21 SECTION 310. Arkansas Code § 11-10-718(c), concerning the release of
22 liens, collection, and priorities under legal dissolutions or distributions,
23 is amended to read as follows:

24 (c)(1) Upon written application by any person, the Director of the
25 ~~Department~~ Division of Workforce Services or his or her designee may release
26 from a lien any property or part of the property subject to the lien
27 described in subdivision (b)(1) of this section, provided that:

28 (A) The Director of the ~~Department~~ Division of Workforce
29 Services or his or her designee determines at any time that the interest of
30 the ~~Department~~ Division of Workforce Services has no value; or

31 (B) The Director of the ~~Department~~ Division of Workforce
32 Services or his or her designee determines that the lien is clouding the
33 title of the property because of an error in the description of properties or
34 similarity in names.

35 (2) In determining the value of the interest of the ~~department~~
36 division in the property to be released, the Director of the ~~Department~~

1 Division of Workforce Services or his or her designee shall give
2 consideration to the value of the property and to the liens thereon having
3 priority over the lien of the ~~department~~ division.
4

5 SECTION 311. Arkansas Code § 11-10-719(a) and (b), concerning
6 collection and refunds, are amended to read as follows:

7 (a)(1) If not later than three (3) years after the date of payment of
8 any amount as a contribution, interest, or penalty pursuant to this chapter,
9 any employer who has made such a payment makes application for an adjustment
10 thereof in connection with a subsequent contribution, interest, or penalty
11 payment, or for a refund because the adjustment cannot be made, and the
12 Director of the ~~Department~~ Division of Workforce Services determines that
13 payment of the contribution, interest, or penalty, or any portion thereof,
14 was erroneous, the director may allow the employer to make an adjustment of
15 the amount erroneously paid, without interest, in connection with subsequent
16 contribution, interest, or penalty payments by the employer.

17 (2) If the adjustment cannot be made, the director may refund,
18 without interest, from the Unemployment Compensation Fund or from the
19 ~~Department~~ Division of Workforce Services Special Fund, as applicable, the
20 amount erroneously paid.

21 (b) However, the director shall not allow any adjustment in connection
22 with subsequent contributions for amounts of interest or penalty payments
23 collected on or after July 1, 1965, nor shall he or she refund any payment
24 from the Unemployment Compensation Fund or any account of the Unemployment
25 Compensation Fund, except that he or she may refund any payment from the
26 interest and penalties collected after that date which are in the clearing
27 account pending transfer to the ~~Department~~ Division of Workforce Services
28 Special Fund.
29

30 SECTION 312. Arkansas Code § 11-10-720(a)(1), concerning collection
31 and a certificate of assessment, is amended to read as follows:

32 (a)(1) If any person, firm, or corporation shall become delinquent in
33 the payment of any contribution, interest, or penalties required to be paid
34 by this chapter, it shall be the duty of the Director of the ~~Department~~
35 Division of Workforce Services, when the amount of the contribution,
36 interest, and penalties is determined, either by the report of the employer

1 or by such investigations as the director may have made, to assess the
2 contributions, interest, and penalties so determined against the delinquent
3 employer and to certify the amount of the contributions, interest, and
4 penalties and mail or otherwise deliver a copy of the assessment to the
5 delinquent employer.

6
7 SECTION 313. Arkansas Code § 11-10-720(a)(3), concerning the execution
8 of a certificate of assessment, is amended to read as follows:

9 (3) Execution shall be issuable, at the request of the director,
10 his or her agent or attorney, or any other employee of the ~~Department~~
11 Division of Workforce Services, forthwith by the clerk of the circuit court,
12 directed to the sheriff, who shall make a levy on any property, assets, or
13 effects of the employer against whom the contribution is assessed.

14
15 SECTION 314. Arkansas Code § 11-10-721(b), concerning the collection
16 and limitation of assessment, is amended to read as follows:

17 (b) In the case of a false or fraudulent return with intent to evade
18 tax or a failure to file reports required by this chapter or by the Director
19 of the ~~Department~~ Division of Workforce Services pursuant to the provisions
20 of this chapter, the tax may be assessed or a proceeding in court for the
21 collection of the tax may be begun at any time.

22
23 SECTION 315. Arkansas Code § 11-10-722(a) and (b), concerning the
24 collection and impoundment of deposits of an employer owing delinquent
25 contributions, are amended to read as follows:

26 (a) The Director of the ~~Department~~ Division of Workforce Services or
27 his or her designated representative may give notice of impoundment of any
28 deposits in any bank or savings and loan institution payable to the order of
29 any employer owing any delinquent contributions, interest, and penalties to
30 which a lien has attached under this chapter. Notice of impoundment shall be
31 served by the director or his or her designated representative by certified
32 mail to the bank or savings and loan institution or by written notice served
33 personally upon its president, vice president, cashier, or assistant cashier.

34 (b) Any bank or savings and loan institution served with notice of
35 impoundment shall be required to recognize the ~~Department~~ Division of
36 Workforce Services' lien on any deposit subject thereto by withholding

1 payment of any deposit in an amount not to exceed the amount of the
2 delinquent contributions, interest, and penalty to the depositor or to his or
3 her order for a period not to exceed sixty (60) days.

4
5 SECTION 316. Arkansas Code § 11-10-723(a)(2), concerning special rules
6 regarding transfers of experience and assignment of rates, is amended to read
7 as follows:

8 (2) If following a transfer of experience under subdivision
9 (a)(1) of this section or transfer of experience as otherwise provided in
10 this chapter involving only a portion of a trade or business, the Director of
11 the ~~Department~~ Division of Workforce Services determines that a substantial
12 purpose of the transfer was to obtain a reduced liability for contributions,
13 then the experience rating accounts of the employers involved shall be
14 combined into a single account and a single rate assigned to such an account
15 effective the first day of the calendar quarter following the date of
16 transfer.

17
18 SECTION 317. Arkansas Code § 11-10-723(c)(1), concerning penalties for
19 violations, and special rules regarding transfers of experience and
20 assignment of rates, is amended to read as follows:

21 (c)(1) Knowing violations or attempted violations of subsection (a) or
22 (b) of this section or any other provision of this subchapter related to
23 determining the assignment of a contribution rate shall result in an
24 additional two-percent rate increase for the rate year during which the
25 violation or attempted violation occurred and a two-percent additional rate
26 increase in each of the following three (3) rate years. In addition to the
27 rate increases, a penalty of ten percent (10%) of total taxes due shall also
28 be assessed in each of these rate years. All penalty amounts shall be
29 deposited and credited to the ~~Department~~ Division of Workforce Services
30 Special Fund as set out in § 11-10-716. The additional tax and penalty
31 required by this subsection shall not be credited to the separate account of
32 any employer, nor shall any employer whose contribution rate has been
33 affected by this subsection be eligible to make a voluntary payment pursuant
34 to § 11-10-705(c).

35
36 SECTION 318. Arkansas Code § 11-10-801(a), concerning the

1 establishment and control of the Unemployment Compensation Fund, is amended
2 to read as follows:

3 (a) There is established as a special fund, separate and apart from
4 all public moneys or funds of this state, the Unemployment Compensation Fund,
5 which shall be administered by the Director of the ~~Department~~ Division of
6 Workforce Services exclusively for the purposes of this chapter.

7

8 SECTION 319. Arkansas Code § 11-10-802(a), concerning the accounts and
9 deposits for the Unemployment Compensation Fund, is amended to read as
10 follows:

11 (a)(1) The Director of the ~~Department~~ Division of Workforce Services
12 shall be ex officio treasurer and custodian of the Unemployment Compensation
13 Fund and disbursing officer of the ~~Department~~ Division of Workforce Services.

14 (2) The director shall administer the Unemployment Compensation
15 Fund and shall maintain within the Unemployment Compensation Fund three (3)
16 separate accounts:

17 (A) A clearing account;

18 (B) An Unemployment Compensation Trust Fund Account; and

19 (C) A benefit account.

20

21 SECTION 320. Arkansas Code § 11-10-803(a)(1), concerning withdrawals
22 from the federal Unemployment Trust Fund, is amended to read as follows:

23 (a)(1) Money requisitioned from this state's account in the federal
24 Unemployment Trust Fund shall be used exclusively for the payment of benefits
25 and for refunds from the Unemployment Trust Fund authorized by this chapter,
26 except that money credited to this state's account pursuant to § 903 of the
27 Social Security Act shall be used exclusively as provided in this section.
28 The Director of the ~~Department~~ Division of Workforce Services shall, from
29 time to time, requisition from the federal Unemployment Trust Fund such
30 amounts not exceeding the amounts standing to this state's account therein as
31 he or she deems necessary for the payment of benefits and refunds for a
32 reasonable future period. Upon receipt thereof, the money shall be deposited
33 in the benefit account.

34

35 SECTION 321. Arkansas Code § 11-10-804(b)(1), concerning the
36 termination of the federal Unemployment Trust Fund, is amended to read as

1 follows:

2 (b)(1) If and when the federal Unemployment Trust Fund ceases to
3 exist, or such separate book account is no longer maintained, all moneys,
4 properties, and securities belonging to the Unemployment Compensation Fund of
5 this state shall be administered by the Director of the ~~Department~~ Division
6 of Workforce Services as a trust fund for the purpose of paying benefits
7 under this chapter.

8

9 SECTION 322. Arkansas Code § 11-10-901(a)(1), concerning the creation,
10 administration, and authority of the Director of the Department of Workforce
11 Services, is amended to read as follows:

12 (a)(1) The Director of the ~~Department~~ Division of Workforce Services
13 is assigned responsibility for the administration of the State New Hire
14 Registry.

15

16 SECTION 323. The introductory language of Arkansas Code § 11-10-
17 902(b)(2), concerning reporting requirements, obligations, confidentiality,
18 and enforcement of child support obligations, is amended to read as follows:

19 (2) An employer shall report electronically or in any manner
20 authorized by the ~~Department~~ Division of Workforce Services for inclusion in
21 the State New Hire Registry whenever an employee:

22

23 SECTION 324. Arkansas Code § 11-10-902(c)(1), concerning reporting
24 requirements, obligations, confidentiality, and enforcement of child support
25 obligations and the New Hire Registry database, is amended to read as
26 follows:

27 (c)(1) Information reported pursuant to this section shall be entered
28 into the State New Hire Registry database maintained by the ~~Department~~
29 Division of Workforce Services or its designated contractor within five (5)
30 business days of receipt from an employer. As used herein, "business day"
31 means a day on which state offices are open for regular business.

32

33 SECTION 325. Arkansas Code § 11-10-902(c)(3), concerning reporting
34 requirements, obligations, confidentiality, and enforcement of child support
35 obligations and timely reporting to the National Directory of New Hires, is
36 amended to read as follows:

1 (3) Within three (3) business days after the date information
2 regarding a newly hired employee is entered into the State New Hire Registry,
3 the ~~Department~~ Division of Workforce Services or its designated contractor
4 shall furnish the information to the National Directory of New Hires.

5
6 SECTION 326. Arkansas Code § 11-10-902(c)(5)(B), concerning reporting
7 requirements, obligations, confidentiality, and enforcement of child support
8 obligations, and the sharing of information with other state agencies, is
9 amended to read as follows:

10 (B) The ~~Department~~ Division of Workforce Services shall
11 have access to information reported by employers pursuant to this section for
12 purposes of administering the ~~Department~~ Division of Workforce Services'
13 programs.

14
15 SECTION 327. Arkansas Code § 11-10-902(d)(1), concerning reporting
16 requirements, obligations, confidentiality, and enforcement of child support
17 obligations, and the sharing of information for enforcement, is amended to
18 read as follows:

19 (d)(1) The ~~Department~~ Division of Workforce Services shall directly or
20 by contract conduct automated comparisons of the Social Security numbers
21 reported by employers and the Social Security numbers appearing within
22 records of the Office of Child Support Enforcement of the Revenue Division of
23 the Department of Finance and Administration for cases being enforced under
24 the Title IV-D State Plan.

25
26 SECTION 328. Arkansas Code § 11-10-1017(b)(2), concerning transfers of
27 assessment payments and an unemployment obligation assessment, is amended to
28 read as follows:

29 (2) At least once each month, deposits of the unemployment
30 obligation assessment payment and any interest and penalty payments
31 applicable to the unemployment obligation assessment shall be deposited into
32 the ~~Department~~ Division of Workforce ~~Services~~ Services' Bond Financing Trust
33 Fund.

34
35 SECTION 329. Arkansas Code § 11-10-1017(e), concerning an unemployment
36 obligation assessment, and the authority of the Director of the Department of

1 Workforce Services, is amended to read as follows:

2 (e) The Director of the ~~Department~~ Division of Workforce Services
3 shall promulgate rules to carry out the provisions of this section.

4
5 SECTION 330. Arkansas Code § 11-10-1018(a)(1), concerning the
6 Department of Workforce Services' Bond Financing Trust Fund, is amended to
7 read as follows:

8 (a)(1) There is established on the books of the ~~Department~~ Division of
9 Workforce Services a special restricted fund to be known as the "Bond
10 Financing Trust Fund", to be maintained and administered by the ~~department~~
11 division under this subchapter for the purposes stated in this subchapter.

12
13 SECTION 331. Arkansas Code § 11-10-1018(c), concerning the Department
14 of Workforce Services' Bond Financing Trust Fund, is amended to read as
15 follows:

16 (c) The ~~department~~ division shall maintain the Bond Financing Trust
17 Fund at the Arkansas Development Finance Authority or at one (1) or more
18 financial institutions within or outside the state.

19
20 SECTION 332. Arkansas Code § 11-10-1018(e), concerning the Department
21 of Workforce Services Bond Financing Trust Fund, is amended to read as
22 follows:

23 (e)(1) All moneys received for, deposited into, or paid to the
24 ~~department~~ division for deposit into the Bond Financing Trust Fund:

25 (A) Are specifically declared to be cash funds restricted
26 in their use;

27 (B) Shall not be deposited into the State Treasury for the
28 purposes of:

29 (i) Arkansas Constitution, Article 5, § 29;

30 (ii) Arkansas Constitution, Article 16, § 12;

31 (iii) Arkansas Constitution, Amendment 20; or

32 (iv) Any other constitutional provision or statutory
33 law; and

34 (C) Shall be held and applied by the ~~department~~ division
35 and the Arkansas Development Finance Authority as agent for the ~~department~~
36 division solely for the uses set forth in this subchapter.

1 recognized for their scientific or technological research efforts;

2 (2) Two (2) directors shall be appointed as representatives of
3 academic institutions who have an extended extensive involvement in science
4 and technology research;

5 (3) Five (5) directors shall be representatives of the private
6 sector of the state, who shall be persons with knowledge or experience in the
7 fields of agriculture, forestry, finance, economic development, or science
8 and technology; and

9 (4) Three (3) directors shall be appointed as representatives of
10 the private sector of the state, who shall be persons with knowledge or
11 experience in the field of manufacturing.

12
13 SECTION 337. Arkansas Code § 15-3-105 is amended to read as follows:

14 15-3-105. Organization.

15 ~~(a)~~ Directors of the Board of Directors of the Division of Science and
16 Technology of the Arkansas Economic Development Commission shall annually
17 elect from their membership one (1) member as chair, one (1) member as vice
18 chair, and one (1) member as secretary.

19 ~~(b)(1) The Executive Director of the Arkansas Economic Development~~
20 ~~Commission may also employ such other officers and employees as he or she may~~
21 ~~deem necessary.~~

22 ~~(2) Any such officer shall be eligible for selection to succeed~~
23 ~~himself or herself.~~

24
25 SECTION 338. Arkansas Code § 15-3-108(a)-(c), concerning the nature,
26 powers, and duties of the Division of Science and Technology of the Arkansas
27 Economic Development Commission, are amended to read as follows:

28 (a) The Division of Science and Technology of the Arkansas Economic
29 Development Commission shall be a body corporate and politic, having the
30 powers and jurisdiction hereinafter enumerated and additional powers as
31 conferred upon it by the General Assembly, the ~~Executive~~ Director of the
32 Arkansas Economic Development Commission, or the people of this state.

33 (b) The ~~executive~~ director, with the advice of the Board of Directors
34 of the Division of Science and Technology of the Arkansas Economic
35 Development Commission, is authorized and designated to engage in
36 undertakings, programs, enterprises, and activities involving agriculture,

1 manufacturing, medical and healthcare, transportation, public utility
2 services, research and development, and other programs involving the
3 establishment and encouragement of science and technological research.

4 (c) The ~~executive~~ director, the division, and its board, employees,
5 and agents shall be immune from civil liability for performing the duties
6 under this subchapter.

7
8 SECTION 339. The introductory language of Arkansas Code § 15-3-108(d),
9 concerning the nature, powers, and duties of the Division of Science and
10 Technology of the Arkansas Economic Development Commission, is amended to
11 read as follows:

12 (d) In the furtherance of the division's purposes, the ~~executive~~
13 director shall have all the powers necessary to carry out the division's
14 purposes, which shall include, but not be limited to:

15
16 SECTION 340. Arkansas Code § 15-3-108(d)(11), concerning the nature,
17 powers, and duties of the Division of Science and Technology of the Arkansas
18 Economic Development Commission, is repealed.

19 ~~(11) Appoint officers, employees, consultants, agents, and~~
20 ~~advisors and prescribe their duties;~~

21
22 SECTION 341. The introductory language of Arkansas Code § 15-3-109(a),
23 concerning the powers of the Executive Director of the Arkansas Economic
24 Development Commission, is amended to read as follows:

25 (a) In relation to the authorization under this subchapter to engage
26 in undertakings, programs, enterprises, and activities involving research and
27 development and other programs involving the establishment and encouragement
28 of scientific and technological research, the ~~Executive~~ Director of the
29 Arkansas Economic Development Commission shall have all the powers necessary
30 to carry out programs which include, but are not limited to:

31
32 SECTION 342. Arkansas Code § 15-3-109(b), concerning the powers of the
33 Executive Director of the Arkansas Economic Development Commission, is
34 amended to read as follows:

35 (b) In establishing and maintaining the programs authorized by this
36 section, the ~~executive~~ director may utilize moneys as are lawfully available

1 to the ~~executive~~ director for supporting the purposes of the Division of
2 Science and Technology of the Arkansas Economic Development Commission.

3
4 SECTION 343. Arkansas Code § 15-3-110(a) and (b), concerning the power
5 to promote basic and applied research at Arkansas colleges and universities,
6 are amended to read as follows:

7 (a) The ~~Executive~~ Director of the Arkansas Economic Development
8 Commission may make such rules and regulations as he or she may deem
9 appropriate to enable him or her to create and fund programs designed to
10 promote basic research and applied research at Arkansas colleges and
11 universities and to develop technology emerging from sources of innovation in
12 this state, including, but not limited to, colleges and universities, federal
13 laboratories, small businesses, and inventors.

14 (b)(1) In carrying out his or her functions under this section, the
15 ~~executive director~~ Director of the Arkansas Economic Development Commission
16 may create such advisory committees as may be useful in evaluating research
17 and development proposals.

18 (2) The memberships of these advisory committees may include
19 both directors and staff members of the Division of Science and Technology of
20 the Arkansas Economic Development Commission and other persons drawn from
21 sources other than the division, all of whom shall serve at the pleasure of
22 the ~~executive director~~ Director of the Arkansas Economic Development
23 Commission.

24 (3) Members of such advisory committees shall serve without
25 compensation for their membership on such committees but may receive expense
26 reimbursement in accordance with § 25-16-901 et seq.

27
28 SECTION 344. Arkansas Code § 15-3-110(d)(1)(B), concerning the power
29 to promote basic and applied research at Arkansas colleges and universities,
30 is amended to read as follows:

31 (B) However, the contribution of the ~~executive director~~
32 Director of the Arkansas Economic Development Commission may defray up to
33 sixty-six and two-thirds percent (66 2/3%) of the total cost of a proposed
34 applied research project if the ~~executive director~~ Director of the Arkansas
35 Economic Development Commission, with the advice of the Board of Directors of
36 the Division of Science and Technology of the Arkansas Economic Development

1 Commission, finds that the participating private industry is principally
2 located in Arkansas and employs fifty (50) or fewer persons.

3
4 SECTION 345. Arkansas Code § 15-3-110(d)(3), concerning the power to
5 promote basic and applied research at Arkansas colleges and universities, is
6 amended to read as follows:

7 (3) The ~~executive director~~ Director of the Arkansas Economic
8 Development Commission shall approve for funding only those proposed applied
9 research projects for which the ~~executive director~~ Director of the Arkansas
10 Economic Development Commission finds that enhanced employment opportunity
11 within Arkansas will be a likely result.

12
13 SECTION 346. Arkansas Code § 15-3-110(e)(2)-(4), concerning the power
14 to promote basic and applied research at Arkansas colleges and universities,
15 are amended to read as follows:

16 (2) The ~~executive director~~ Director of the Arkansas Economic
17 Development Commission shall impose a reasonable, nonrefundable fee for the
18 evaluation of the technological and economic potential of emerging
19 technologies contained in proposals from nonpublic sources of innovation.

20 (3) The ~~executive director~~ Director of the Arkansas Economic
21 Development Commission is authorized to incorporate a royalty provision not
22 to exceed five percent (5%) of net sales revenue per year for a period of not
23 more than ten (10) years as a condition of award.

24 (4) The ~~executive director~~ Director of the Arkansas Economic
25 Development Commission shall approve for funding only those proposed
26 technology development projects for which the ~~executive director~~ Director of
27 the Arkansas Economic Development Commission finds that enhanced economic
28 opportunity within Arkansas will be a likely result.

29
30 SECTION 347. Arkansas Code § 15-3-111 is amended to read as follows:
31 15-3-111. Additional powers.

32 The ~~Executive~~ Director of the Arkansas Economic Development Commission
33 shall have such additional powers and duties as may be hereafter delegated to
34 or imposed upon him or her from time to time by the General Assembly.

35
36 SECTION 348. Arkansas Code § 15-3-112 is amended to read as follows:

1 15-3-112. Prohibition on personal interest in contracts.

2 (a) No director, officer, or employee of the Division of Science and
3 Technology of the Arkansas Economic Development Commission or of the Board of
4 Directors of the Division of Science and Technology of the Arkansas Economic
5 Development Commission, for purpose of personal gain, shall have or attempt
6 to have, directly or indirectly, any interest in any contract or agreement of
7 the division in connection with the qualified investments or other programs
8 of the division.

9 (b) The ~~Executive~~ Director of the Arkansas Economic Development
10 Commission shall not invest, pursuant to § 15-3-122, in any qualified
11 security of:

12 (1) Any enterprise that is owned, wholly or partially, directly
13 or indirectly, by any director or officer of the division; or

14 (2) Any enterprise that employs a director of the division.

15 (c) It shall not be a violation of this section for the ~~executive~~
16 ~~director~~ Director of the Arkansas Economic Development Commission to permit
17 any college, university, or other nonprofit institution with which a director
18 is affiliated to participate in any program of the division, provided that
19 the director shall promptly disclose the nature of the affiliation to the
20 board.

21 (d)(1) It shall not be a violation of this section for the ~~executive~~
22 ~~director~~ Director of the Arkansas Economic Development Commission to permit a
23 manufacturer or other for-profit entity with which a director is affiliated
24 to pay to the division fees for services and receive, in return for those
25 fees, services:

26 (A) That are generally available to all manufacturers or
27 other for-profit entities; and

28 (B) That are not available to the manufacturer or other
29 for-profit entity solely due to its affiliation with a director.

30 (2)(A) A director affiliated with a manufacturer or other for-
31 profit entity that enters into a contract or an agreement pursuant to
32 subdivision (d)(1) of this section shall disclose the contract or agreement
33 in writing to the ~~executive director~~ Director of the Arkansas Economic
34 Development Commission.

35 (B) The ~~executive director~~ Director of the Arkansas
36 Economic Development Commission shall inform the board of the contract or

1 agreement at its next regularly scheduled meeting and attach a copy of the
2 written disclosure to the minutes of that meeting.

3
4 SECTION 349. Arkansas Code § 15-3-113(b) and (c), concerning the
5 Division of Science and Technology of the Arkansas Economic Development
6 Commission's cooperation with other agencies for studies, planning, and
7 recommendations for industrial development, are amended to read as follows:

8 (b) The ~~Executive~~ Director of the Arkansas Economic Development
9 Commission shall recommend to the General Assembly proposed laws and
10 regulations to support the growth and development of programs and research in
11 the sciences and specialized areas of high technology.

12 (c) The ~~executive~~ director may provide leadership and assistance in
13 cooperation with the Arkansas Public Service Commission, or any other
14 federal, state, county, or municipal authority and to private industries in
15 this state for the adoption and execution of any improvements, changes in
16 methods of operation, rates of transportation, utilities, and zoning and
17 building requirements and covenants which, in the opinion of the ~~executive~~
18 director, may be designed to improve or better operate the existing programs
19 and research in the sciences and specific areas of high technology and
20 related industrial development.

21
22 SECTION 350. Arkansas Code § 15-3-116(a), concerning the deposit of
23 money and audits of the Division of Science and Technology of the Arkansas
24 Economic Development Commission, is amended to read as follows:

25 (a) All moneys coming into the hands of the Division of Science and
26 Technology of the Arkansas Economic Development Commission shall be deposited
27 into one (1) or more financial institutions selected by the ~~Executive~~
28 Director of the Arkansas Economic Development Commission with the advice of
29 the Board of Directors of the Division of Science and Technology of the
30 Arkansas Economic Development Commission and authorized to do business in
31 this state.

32
33 SECTION 351. Arkansas Code § 15-3-116(c), concerning the deposit of
34 money and audits of the Division of Science and Technology of the Arkansas
35 Economic Development Commission, is amended to read as follows:

36 (c) The ~~executive~~ director shall provide for an audit to be performed

1 and accepted by a certified public accountant or firm within sixty (60) days
2 following the conclusion of each fiscal year of the division and shall file
3 copies thereof with the Legislative Joint Auditing Committee.
4

5 SECTION 352. Arkansas Code § 15-3-132(a)(2), concerning the criteria
6 and designation of centers for applied technology, is amended to read as
7 follows:

8 (2) Establish, in consultation with the ~~Department~~ Division of
9 Higher Education, criteria that must be satisfied for designation as a
10 center, including, but not limited to:

11 (A) An established record of research, development, and
12 instruction in the area of technology;

13 (B) The capacity to conduct research and development
14 activities in collaboration with private enterprises;

15 (C) The capacity to secure substantial private and other
16 government funding for the proposed center;

17 (D) The ability and willingness to cooperate with other
18 colleges and universities in conducting research and development activities
19 and in disseminating research results and to work with institutions of higher
20 learning to enhance the quality of technological education in the area or
21 areas of technology involved; and

22 (E) The ability and willingness to cooperate with the
23 division, the Arkansas Economic Development Council, and other economic
24 development agencies in promoting the growth and development in Arkansas of
25 enterprises based upon or benefiting from the areas of technology involved;
26 and
27

28 SECTION 353. Arkansas Code § 15-3-133(b), concerning the advisory
29 committees of centers for applied technology, is amended to read as follows:

30 (b) The memberships of these advisory committees may include both
31 directors and staff members of the division and other persons drawn from
32 sources other than the division, all of whom shall serve at the pleasure of
33 the ~~Executive~~ Director of the Arkansas Economic Development Commission.
34

35 SECTION 354. Arkansas Code § 15-3-203(b)(1), concerning the
36 administration of the Arkansas Research Matching Fund, is amended to read as

1 follows:

2 (b)(1) Upon receipt of an application for matching funds to match
3 federal funds from one (1) of the funding agencies identified in § 15-3-205,
4 the commission, with the advice of the Board of Directors of the Division of
5 Science and Technology of the Arkansas Economic Development Commission, shall
6 determine the eligibility for matching funds based on a finding that the
7 proposed research is in fields having long-term economic or commercial value
8 to the state and which have been identified in the research and development
9 plan approved by the ~~Executive~~ Director of the Arkansas Economic Development
10 Commission.

11

12 SECTION 355. Arkansas Code § 15-3-204(b), concerning the disbursement
13 of funds from Arkansas Research Matching Fund is amended to read as follows:

14 (b) The ~~Executive~~ Director of the Arkansas Economic Development
15 Commission, with the advice of the Board of Directors of the Division of
16 Science and Technology of the Arkansas Economic Development Commission, may
17 approve multi-year research grants, but disbursements of the matching funds
18 authorized by this subchapter shall be for no more than a twelve-month
19 period.

20

21 SECTION 356. Arkansas Code § 15-3-605(c)(4), concerning the
22 application requirements for a business and technology accelerator grant, is
23 amended to read as follows:

24 (4) Provide advice to the ~~Executive~~ Director of the Arkansas
25 Economic Development Commission concerning the applications for business and
26 technology accelerator grants reviewed by the division.

27

28 SECTION 357. Arkansas Code § 15-3-606(a)(1)(A), concerning business
29 and technology accelerator grant awards, is amended to read as follows:

30 (A) Be awarded under this subchapter unless offered in
31 writing by the ~~Executive~~ Director of the Arkansas Economic Development
32 Commission; and

33

34 SECTION 358. Arkansas Code § 15-3-606(a)(2), concerning business and
35 technology accelerator grant awards, is amended to read as follows:

36 (2) Subject to funding and the discretion of the ~~executive~~

1 director, may be offered to an eligible applicant that successfully completes
2 the application process.

3
4 SECTION 359. Arkansas Code § 15-3-706(c)(4), concerning the
5 application requirements for matching grants, is amended to read as follows:

6 (4) Provide advice to the ~~Executive~~ Director of the Arkansas
7 Economic Development Commission concerning the applications for matching
8 grants reviewed by the division.

9
10 SECTION 360. Arkansas Code § 15-3-707(a)(1)(A), concerning the
11 matching of grants awarded by the Executive Director of the Arkansas Economic
12 Development Commission, is amended to read as follows:

13 (A) Be awarded under this subchapter unless offered in
14 writing by the ~~Executive~~ Director of the Arkansas Economic Development
15 Commission; and

16
17 SECTION 361. Arkansas Code § 15-4-104(a), concerning the bond guaranty
18 programs for employee stock purchases, is amended to read as follows:

19 (a) When an Arkansas-based employee stock ownership plan buys at least
20 twenty percent (20%) of the stock of an Arkansas-based business entity formed
21 under Arkansas law and the ~~Executive~~ Director of the Arkansas Economic
22 Development Commission determines that had it not been for the purchase by
23 the employee stock ownership plan that Arkansas jobs would have been lost,
24 the Arkansas-based business entity shall be qualified for any bond guaranty
25 programs administered by the Arkansas Economic Development Commission or the
26 Arkansas Development Finance Authority.

27
28 SECTION 362. Arkansas Code § 15-4-203(a)(2), concerning the
29 organization and meetings of the Arkansas Economic Development Council, is
30 amended to read as follows:

31 (2) The ~~Executive~~ Director of the Arkansas Economic Development
32 Commission shall be ex officio Secretary of the Arkansas Economic Development
33 Council but shall have no vote on matters coming before it.

34
35 SECTION 363. Arkansas Code § 15-4-204(a), concerning the functions,
36 powers, and duties of the Arkansas Economic Development Council, is amended

1 to read as follows:

2 (a) The Arkansas Economic Development Council may serve in an advisory
3 capacity to the ~~Executive~~ Director of the Arkansas Economic Development
4 Commission, the Governor, and the General Assembly.

5

6 SECTION 364. Arkansas Code § 15-4-206 is amended to read as follows:

7 15-4-206. Arkansas Economic Development Commission – ~~Executive~~
8 Director.

9 (a)(1) The ~~Executive~~ Director of the Arkansas Economic Development
10 Commission shall be appointed by the Governor subject to confirmation by the
11 Senate.

12 (2) The ~~executive~~ director shall serve at the pleasure of the
13 Governor.

14 (3) The director shall report to the Secretary of the Department
15 of Commerce.

16 (b) The ~~executive~~ director shall:

17 (1) Have the experience necessary to lead the Arkansas Economic
18 Development Commission as determined by the ~~Governor~~ Secretary of the
19 Department of Commerce;

20 (2) Be custodian of all property held in the name of the
21 commission; and

22 (3) Be the ex officio disbursing agent of all funds available
23 for the commission's use.

24

25 SECTION 365. Arkansas Code § 15-4-219(2), concerning the annual report
26 of the Arkansas Economic Development Commission, is amended to read as
27 follows:

28 (2) The ~~Executive~~ Director of the Arkansas Economic Development
29 Commission's assessment of the commission's performance, including without
30 limitation a comparison to:

31 (A) The commission's performance over the past two (2)
32 years;

33 (B) The commission's own projections; and

34 (C) Economic development in neighboring states.

35

36 SECTION 366. Arkansas Code § 15-4-305 is amended to read as follows:

1 15-4-305. Administrator.

2 (a) The head of the Division of Minority and Women-owned Business
3 Enterprise of the Arkansas Economic Development Commission is the
4 Administrator of the Division of Minority and Women-owned Business Enterprise
5 of the Arkansas Economic Development Commission.

6 (b) The administrator ~~and~~ shall be appointed by the Governor and shall
7 serve at the pleasure of the Governor.

8 (c) The administrator shall report to the Secretary of the Department
9 of Commerce.

10
11 SECTION 367. Arkansas Code § 15-4-307(c)(4), concerning the Minority
12 and Women-owned Business Advisory Council, is amended to read as follows:

13 (4) The ~~Executive~~ Director of the Arkansas Economic Development
14 Commission shall appoint two (2) members of the council.

15
16 SECTION 368. The introductory language of Arkansas Code § 15-4-
17 307(h)(3), concerning the Minority and Women-owned Business Advisory Council,
18 is amended to read as follows:

19 (3) Make annual reports to the ~~Governor~~ Secretary of the
20 Department of Commerce, including without limitation:

21
22 SECTION 369. Arkansas Code § 15-4-706(a), concerning the execution and
23 delivery on bonds by the Chair of the Arkansas Economic Development Council
24 and the Executive Director of the Arkansas Economic Development Commission,
25 is amended to read as follows:

26 (a) The bonds shall be executed by the facsimile signature of the
27 Chair of the Arkansas Economic Development Council and by the manual
28 signature of the ~~Executive~~ Director of the Arkansas Economic Development
29 Commission.

30
31 SECTION 370. Arkansas Code § 15-4-1602(1), concerning the definition
32 of "annual payroll" under the Arkansas Economic Development Incentive Act of
33 1993, is amended to read as follows:

34 (1) "Annual payroll" means the wages of the net new full-time
35 permanent employees based on the payroll for the previous twelve (12) months
36 reported to the ~~Department~~ Division of Workforce Services and is computed by

1 using the total of the net new full-time permanent employees' reported
2 taxable earnings, including overtime pay;

3
4 SECTION 371. Arkansas Code § 15-4-1602(5), concerning the definition
5 of "executive director" under the Arkansas Economic Development Incentive
6 Act, is repealed.

7 ~~(5) "Executive director" means the Executive Director of the~~
8 ~~Arkansas Economic Development Commission;~~

9
10 SECTION 372. Arkansas Code § 15-4-1602(9), concerning the definition
11 of "high unemployment" under the Arkansas Economic Development Incentive Act
12 of 1993, is amended to read as follows:

13 (9)(A) "High unemployment" means an unemployment rate equal to
14 or in excess of one hundred fifty percent (150%) of the state's average
15 unemployment rate for the preceding calendar year as specified by statewide
16 annual labor force statistics compiled by the ~~department~~ Division of
17 Workforce Services when the state's annual average unemployment rate is six
18 percent (6%) or below.

19 (B) When the state's annual average unemployment rate is
20 above six percent (6%), "high unemployment" means equal to or in excess of
21 three percent (3%) above the state's average unemployment rate for the
22 preceding calendar year as specified by statewide annual labor force
23 statistics compiled by the ~~department~~ Division of Workforce Services;

24
25 SECTION 373. Arkansas Code § 15-4-1604(2)(A), concerning the powers
26 and duties of the Arkansas Economic Development Commission, is amended to
27 read as follows:

28 (2)(A) In highly competitive situations, the ~~Executive~~ Director
29 of the Arkansas Economic Development Commission is authorized to negotiate
30 proposals on behalf of the state with prospective businesses which are
31 considering locating a new facility or expanding an existing facility that
32 would employ the requisite number of net new full-time permanent employees
33 provided by § 15-4-1605.

34
35 SECTION 374. Arkansas Code § 15-4-1606(3)(A), concerning the
36 limitations on all financial incentive plans negotiated by the Arkansas

1 Economic Development Council, is amended to read as follows:

2 (3)(A) If the number of net new full-time permanent employees
3 drops below the requisite number provided in § 15-4-1605, all benefits under
4 the financial incentive plan entered into with the commission shall be
5 terminated unless the ~~Executive~~ Director of the Arkansas Economic Development
6 Commission and the Chief Fiscal Officer of the State approve a written
7 request filed by the business explaining why the number of net new full-time
8 permanent employees fell below the requisite number. The ~~executive~~ director
9 and the Chief Fiscal Officer of the State may grant the business up to
10 twenty-four (24) months to bring the number of net new full-time permanent
11 employees back up to the requisite number and may approve the continuation of
12 benefits during that period.

13

14 SECTION 375. Arkansas Code § 15-4-1606(4)(B)(ii), concerning the
15 limitations on all financial incentive plans negotiated by the Arkansas
16 Economic Development Council, is amended to read as follows:

17 (ii) A financial incentive plan may designate funds
18 for employee training, infrastructure, or other purposes agreed to by the
19 business and the ~~executive~~ director; and

20

21 SECTION 376. Arkansas Code § 15-4-1608(a), concerning verification by
22 the Department of Finance and Administration of financial incentive plans
23 with the Arkansas Economic Development Commission, is amended to read as
24 follows:

25 (a) The Department of Finance and Administration shall have the
26 authority to obtain whatever information necessary from participating
27 businesses and from the ~~Department~~ Division of Workforce Services to verify
28 that businesses which have entered into financial incentive plans with the
29 Arkansas Economic Development Commission are complying with the terms of the
30 financial incentive plans and reporting accurate information concerning the
31 number of employees and their payrolls to the Department of Finance and
32 Administration.

33

34 SECTION 377. Arkansas Code § 15-4-1702(1)(A), concerning the
35 definition of "average hourly wage" under the Arkansas Enterprise Zone Act of
36 1993, is amended to read as follows:

1 (1)(A) "Average hourly wage" means the average wage of the net
2 new full-time permanent employees based on payroll for the most recent
3 quarter reported to the ~~Department~~ Division of Workforce Services.
4

5 SECTION 378. Arkansas Code § 15-4-1702(5), concerning the definition
6 of "executive director" under the Arkansas Enterprise Zone Act of 1993, is
7 repealed.

8 ~~(5) "Executive director" means the Executive Director of the~~
9 ~~Arkansas Economic Development Commission;~~

10
11 SECTION 379. Arkansas Code § 15-4-1702(15), concerning the definition
12 of "project plan" under the Arkansas Enterprise Zone Act of 1993, is amended
13 to read as follows:

14 (15) "Project plan" means the plan submitted to the commission
15 containing such information as may be required by the ~~executive~~ director to
16 determine eligibility for benefits;
17

18 SECTION 380. Arkansas Code § 15-4-1704(g)(2), concerning a refund of
19 sales and use tax and a tax credit, is amended to read as follows:

20 (2) In the event that the requisite number of net new full-time
21 permanent employees cannot be employed within the twenty-four-month period,
22 the business can file a written application with the commission explaining
23 why additional time is necessary. The business can be afforded up to twenty-
24 four (24) more months to hire the requisite number of employees if the
25 ~~Executive~~ Director of the Arkansas Economic Development Commission and the
26 Chief Fiscal Officer of the State determine that the need for additional time
27 is due to:

28 (A) Unanticipated and unavoidable delay in the
29 construction of a facility that must be completed before the employees can be
30 hired;

31 (B) The project as originally planned will require more
32 than twenty-four (24) months to complete; or

33 (C) A change in the business ownership or business
34 structure due to a merger or acquisition.
35

36 SECTION 381. Arkansas Code § 15-4-1709(a), concerning the exceptions

1 to a designation as a high-unemployment county, is amended to read as
2 follows:

3 (a) A county that does not qualify as a high-unemployment county, as
4 defined in § 15-4-1702, but has experienced a sudden and severe period of
5 economic distress caused by the closing of a business entity that results in
6 the loss of a minimum of five hundred (500) full-time permanent jobs or a
7 minimum of five percent (5%) of the employed labor force, as determined by
8 the most recent "Labor Market Information" publication published by the
9 ~~Department~~ Division of Workforce Services, may be designated as a high-
10 unemployment county by the Arkansas Economic Development Council.

11

12 SECTION 382. Arkansas Code § 15-4-1902(1)(A), concerning the
13 definition of "average hourly wage" under the Arkansas Economic Development
14 Act of 1995, is amended to read as follows:

15 (1)(A) "Average hourly wage" means the average wage of the net
16 new full-time permanent employees based on payroll for the most recent
17 quarter reported to the ~~Department~~ Division of Workforce Services.

18

19 SECTION 383. Arkansas Code § 15-4-1902(6), concerning the definition
20 of "executive director" under the Arkansas Economic Development Act of 1995,
21 is repealed.

22 ~~(6) "Executive director" means the Executive Director of the~~
23 ~~Arkansas Economic Development Commission;~~

24

25 SECTION 384. Arkansas Code § 15-4-1903(2)(B)(iv), concerning the
26 powers and duties of the Arkansas Economic Development Commission, is amended
27 to read as follows:

28 (iv) If the project is located in a high
29 unemployment area, the ~~Executive~~ Director of the Arkansas Economic
30 Development Commission will consider all the factors of the project and
31 negotiate with the business an income tax credit in an amount up to one
32 hundred percent (100%) of the state income tax liability;

33

34 SECTION 385. Arkansas Code § 15-4-1906(b)(1)(2)(B), concerning the
35 refund of sales and use taxes and income tax credits, is amended to read as
36 follows:

1 (B) In the event that the requisite number of net new
2 full-time permanent employees cannot be employed within the twenty-four-month
3 period, the business can file a written application with the commission
4 explaining why additional time is necessary. The business can be afforded up
5 to twenty-four (24) more months to hire the requisite number of employees if
6 the ~~Executive~~ Director of the Arkansas Economic Development Commission and
7 the Chief Fiscal Officer of the State determine that the need for additional
8 time is due to:

9 (i) Unanticipated and unavoidable delay in the
10 construction of a facility that must be completed before the employees can be
11 hired;

12 (ii) The project as originally planned will require
13 more than twenty-four (24) months to complete; or

14 (iii) A change in the business ownership or business
15 structure due to a merger or acquisition.

16
17 SECTION 386. Arkansas Code § 15-4-1907(a), concerning verification by
18 the Department of Finance and Administration of financial incentive plans
19 with the Arkansas Economic Development Commission is amended to read as
20 follows:

21 (a) The Department of Finance and Administration shall have the
22 authority to obtain whatever information necessary from the participating
23 businesses and from the ~~Department~~ Division of Workforce Services to verify
24 that businesses which have entered into financial incentive plans with the
25 Arkansas Economic Development Commission are complying with the terms of the
26 financial incentive plans and reporting accurate information concerning the
27 number of employees and their payroll to the Department of Finance and
28 Administration.

29
30 SECTION 387. Arkansas Code § 15-4-2004(b)(2), concerning the
31 requirement for registration of a production company with the Film Office, is
32 amended to read as follows:

33 (2) The ~~Executive~~ Director of the Arkansas Economic Development
34 Commission may waive this requirement if he or she determines that the state
35 should not be acknowledged.

36

1 SECTION 388. Arkansas Code § 15-4-2007(b)(2)(B)(ii), concerning the
2 filing application for rebate with the Arkansas Economic Development
3 Commission, is amended to read as follows:

4 (ii) Term of the agreement, which shall be
5 calculated from the date the agreement is signed by the production company
6 and the ~~Executive~~ Director of the Arkansas Economic Development Commission;
7

8 SECTION 389. Arkansas Code § 15-4-2303(6), concerning the definition
9 of "executive director" under the Arkansas Public Roads Improvements Credit
10 Act, is repealed.

11 ~~(6) "Executive director" means the Executive Director of the~~
12 ~~Arkansas Economic Development Commission;~~
13

14 SECTION 390. Arkansas Code § 15-4-2303(10), concerning the definition
15 of "project" under the Arkansas Public Roads Improvements Credit Act, is
16 amended to read as follows:

17 (10) "Project" means all, any combination, or any part of the
18 capital improvements for public roads which are authorized by a governing
19 authority and approved by the ~~executive director~~ Director of the Arkansas
20 Economic Development Commission;
21

22 SECTION 391. Arkansas Code § 15-4-2304 is amended to read as follows:
23 15-4-2304. Approval of projects.

24 Governing authorities may apply to the ~~Executive~~ Director of the
25 Arkansas Economic Development Commission for funding assistance for capital
26 improvement projects for public roads as provided by this subchapter. The
27 ~~executive~~ director is authorized to approve capital improvements for funding
28 assistance upon a finding that a project is in the public interest.
29

30 SECTION 392. Arkansas Code § 15-4-2305(b), concerning the Public Roads
31 Incentive Fund, is amended to read as follows:

32 (b) The fund shall consist of contributions made by taxpayers for
33 public roads projects approved by the ~~Executive~~ Director of the Arkansas
34 Economic Development Commission and any other funds as are designated or
35 deposited to the fund by law.
36

1 SECTION 393. Arkansas Code § 15-4-2305(c)(2), concerning the Public
2 Roads Incentive Fund, is amended to read as follows:

3 (2) Any contributions which remain in the fund when a project is
4 completed or terminated shall be held and applied to other public roads
5 projects in such manner as the ~~executive~~ director shall direct.
6

7 SECTION 394. Arkansas Code § 15-4-2501(4), concerning the definition
8 of "executive director" under the law regarding the Arkansas Economic
9 Development Commission, is repealed.

10 ~~(4) "Executive director" means the Executive Director of the~~
11 ~~Arkansas Economic Development Commission;~~
12

13 SECTION 395. Arkansas Code § 15-4-2501(5)(A), concerning the
14 definition of "high unemployment" under the law regarding the Arkansas
15 Economic Development Commission, is amended to read as follows:

16 (5)(A) "High unemployment" means an unemployment rate equal to
17 or greater than one hundred fifty percent (150%) of the state's average
18 unemployment rate for the preceding calendar year as specified by statewide
19 annual labor force statistics compiled by the ~~Department~~ Division of
20 Workforce Services, when the state's annual average unemployment is six
21 percent (6%) or lower.
22

23 SECTION 396. Arkansas Code § 15-4-2703(7)(A), concerning the
24 definition of "county or state average hourly wage" under the Consolidated
25 Incentive Act of 2003, is amended to read as follows:

26 (7)(A) "County or state average hourly wage" means the weighted
27 average weekly earnings for Arkansans in all industries, both statewide and
28 countywide, as calculated by the ~~Department~~ Division of Workforce Services in
29 its most recent "Annual Covered Employment and Earnings" publication, divided
30 by forty (40).
31

32 SECTION 397. The introductory language of Arkansas Code § 15-4-
33 2703(9)(I), concerning the definition of "eligible businesses" under the
34 Consolidated Incentive Act of 2003, is amended to read as follows:

35 (I) The ~~Executive~~ Director of the Arkansas Economic
36 Development Commission may classify a nonretail business as an eligible

1 business if the following conditions exist:

2

3 SECTION 398. Arkansas Code § 15-4-2703(11), concerning the definition
4 of "executive director" under the Consolidated Incentive Act of 2003, is
5 repealed.

6 ~~(11) "Executive director" means the Executive Director of the~~
7 ~~Arkansas Economic Development Commission;~~

8

9 SECTION 399. Arkansas Code § 15-4-2703(12)(C), concerning the
10 definition of "existing employees" under the Consolidated Incentive Act of
11 2003, is amended to read as follows:

12 (C) If the ~~Executive~~ Director of the Arkansas Economic
13 Development Commission and the ~~Director~~ Secretary of the Department of
14 Finance and Administration find that a significant impairment of Arkansas job
15 opportunities for existing employees will otherwise occur, they may jointly
16 authorize the counting of existing employees as new full-time permanent
17 employees;

18

19 SECTION 400. Arkansas Code § 15-4-2703(17)(A)(ii)(b), concerning the
20 definition of "in-house research" under the Consolidated Incentive Act of
21 2003, is amended to read as follows:

22 (b) A contractual agreement with a state
23 college, state university, or other research organization to perform research
24 for a targeted business if the ~~Executive~~ Director of the Arkansas Economic
25 Development Commission with the advice of the Board of Directors of the
26 Division of Science and Technology of the Arkansas Economic Development
27 Commission makes a written determination before the research is performed
28 that the research is essential to the core function of the targeted business.

29

30 SECTION 401. Arkansas Code § 15-4-2703(32)(A), concerning the
31 definition of "project plan" under the Consolidated Incentive Act of 2003, is
32 amended to read as follows:

33 (A) Submitted to the commission containing such
34 information as may be required by the ~~Executive~~ Director of the Arkansas
35 Economic Development Commission to determine eligibility for benefits; and

36

1 SECTION 402. Arkansas Code § 15-4-2703(41), concerning the definition
2 of "strategic research" under the Consolidated Incentive Act of 2003, is
3 amended to read as follows:

4 (41) "Strategic research" means research that has strategic
5 economic or long-term commercial value to the state and that is identified in
6 the research and development plan approved from time to time by the ~~Executive~~
7 Director of the Arkansas Economic Development Commission with the advice of
8 the Board of Directors of the Division of Science and Technology of the
9 Arkansas Economic Development Commission;

10
11 SECTION 403. Arkansas Code § 15-4-2704(e)(1), concerning the tier
12 system of the Arkansas Economic Development Commission, is amended to read as
13 follows:

14 (e)(1) A county that has experienced a sudden and severe period of
15 economic distress caused by the closing of a business entity that results in
16 the loss of a minimum of five percent (5%) of the employed labor force, as
17 determined by the most recent Labor Market Information publication published
18 by the ~~Department~~ Division of Workforce Services, may be moved up one (1)
19 tier upon submitting a request to and being approved by the Arkansas Economic
20 Development Council.

21
22 SECTION 404. Arkansas Code § 15-4-2705(d)(3), concerning a job-
23 creation tax credit, is amended to read as follows:

24 (3) To qualify for a credit under this subsection, the proposed
25 average hourly wage of a company applying for the benefit shall equal or be
26 greater than the lowest county average hourly wage as calculated by the
27 commission based on the most recent calendar year data published by the
28 ~~Department~~ Division of Workforce Services.

29
30 SECTION 405. Arkansas Code § 15-4-2705(h)(1), concerning a job-
31 creation tax credit, is amended to read as follows:

32 (h)(1) If a business fails to meet the payroll threshold within two
33 (2) years after the signing of the financial incentive agreement or within
34 the time period established by an extension approved by the ~~Director~~
35 Secretary of the Department of Finance and Administration and the ~~Executive~~
36 Director of the Arkansas Economic Development Commission, that business will

1 be liable for repayment of all benefits previously received by the business.

2
3 SECTION 406. Arkansas Code § 15-4-2706(b)(1), concerning investment
4 tax incentives, is amended to read as follows:

5 (b)(1) The award of this incentive shall be at the discretion of the
6 ~~Executive~~ Director of the Arkansas Economic Development Commission.

7
8 SECTION 407. Arkansas Code § 15-4-2706(b)(4), concerning investment
9 tax incentives, is amended to read as follows:

10 (4) Upon approval by the commission, the ~~Executive~~ Director of
11 the Arkansas Economic Development Commission shall transmit an approved
12 financial incentive agreement to the approved company and the Revenue
13 Division of the Department of Finance and Administration.

14
15 SECTION 408. Arkansas Code § 15-4-2706(b)(7), concerning investment
16 tax incentives, is amended to read as follows:

17 (7) Technology-based enterprises, as defined by § 14-164-
18 203(12), may earn, at the discretion of the ~~Executive~~ Director of the
19 Arkansas Economic Development Commission, an income tax credit or sales and
20 use tax credit based on new investment, provided that the technology-based
21 enterprise:

22 (A) Creates a new payroll of at least two hundred fifty
23 thousand dollars (\$250,000); and

24 (B) Pays wages that are at least one hundred seventy-five
25 percent (175%) of the state or county average hourly wage, whichever is less.

26
27 SECTION 409. Arkansas Code § 15-4-2706(c)(4)(A)-(D), concerning
28 investment tax incentives, are amended to read as follows:

29 (4)(A) Upon determination by the ~~Executive~~ Director of the
30 Arkansas Economic Development Commission that the project qualifies for
31 credit under this subsection, the ~~Executive~~ Director of the Arkansas Economic
32 Development Commission shall certify to the ~~Director~~ Secretary of the
33 Department of Finance and Administration that the project qualifies and shall
34 transmit with his or her certification the documents or copies of the
35 documents upon which the certification was based.

36 (B) The ~~Director~~ Secretary of the Department of Finance

1 and Administration shall provide forms to the qualified business on which to
2 claim the credit.

3 (C) At the end of the calendar year in which the
4 application is made and at the end of each calendar year thereafter until the
5 project is completed, the qualified business shall certify on the form
6 provided by the ~~Director~~ Secretary of the Department of Finance and
7 Administration the amount of expenditures on the project during the preceding
8 calendar year.

9 (D) Upon receipt of the form certifying expenditures, the
10 ~~Director~~ Secretary of the Department of Finance and Administration shall
11 determine the amount due as a credit for the preceding calendar year and
12 issue a memorandum of credit to the qualified business.

13
14 SECTION 410. Arkansas Code § 15-4-2706(d)(2)(A)(i), concerning
15 investment tax incentives, is amended to read as follows:

16 (2)(A)(i) A sales and use tax refund of state and local sales
17 and use taxes, excepting the sales and use taxes dedicated to the Educational
18 Adequacy Fund created in § 19-5-1227 and the Conservation Tax Fund as
19 authorized by § 19-6-484, on the purchases of the material used in the
20 construction of a building or buildings or any addition, modernization, or
21 improvement thereon for housing any new or expanding qualified business and
22 machinery and equipment to be located in or in connection with such a
23 building shall be authorized by the ~~Director~~ Secretary of the Department of
24 Finance and Administration.

25
26 SECTION 411. Arkansas Code § 15-4-2706(e)(3), concerning investment
27 tax incentives, is amended to read as follows:

28 (3) After the ~~Executive~~ Director of the Arkansas Economic
29 Development Commission has determined that the project is eligible for the
30 sales and use tax refund, this determination accompanied by the financial
31 incentive agreement and any other pertinent documentation shall be forwarded
32 to the ~~Director~~ Secretary of the Department of Finance and Administration.

33
34 SECTION 412. Arkansas Code § 15-4-2706(e)(4)(A)(i), concerning
35 investment tax incentives, is amended to read as follows:

36 (4)(A)(i) A sales and use tax refund of state and local sales

1 and use taxes, excepting the sales and use taxes dedicated to the Educational
2 Adequacy Fund as authorized by § 26-57-1002(d)(1)(A)(ii)(b) and the
3 Conservation Tax Fund as authorized by § 19-6-484, on the purchases of the
4 material used in the construction of a building or buildings or any addition,
5 modernization, or improvement thereon for housing any new or expanding
6 qualified business and machinery and equipment to be located in or in
7 connection with such a building shall be authorized by the ~~Director~~ Secretary
8 of the Department of Finance and Administration.

9
10 SECTION 413. Arkansas Code § 15-4-2707(d)(1), concerning the Economic
11 Development Incentive Fund payroll rebate, is amended to read as follows:

12 (d)(1) The award of this incentive is at the discretion of the
13 ~~Executive~~ Director of the Arkansas Economic Development Commission and may be
14 offered for a period of up to ten (10) years.

15
16 SECTION 414. Arkansas Code § 15-4-2707(d)(3)(E), concerning the
17 Economic Development Incentive Fund payroll rebate, is amended to read as
18 follows:

19 (E) The ~~executive~~ director may authorize benefits to a
20 prospective eligible business up to five percent (5%) of the payroll of new
21 full-time permanent employees if the following conditions exist:

22 (i) The prospective eligible business is considering
23 a location in another state;

24 (ii) The prospective eligible business receives at
25 least seventy-five percent (75%) of its sales revenues from out of state; and

26 (iii) The prospective eligible business is proposing
27 to pay wages in excess of one hundred percent (100%) of the county average
28 hourly wage of the county in which it locates.

29
30 SECTION 415. Arkansas Code § 15-4-2707(e)(1), concerning the Economic
31 Development Incentive Fund payroll rebate, is amended to read as follows:

32 (e)(1) Technology-based enterprises, as defined in § 14-164-
33 203(12), may earn, at the discretion of the ~~executive~~ director, a payroll
34 rebate equal to five percent (5%) of the payroll for new full-time permanent
35 employees for a period not to exceed ten (10) years.

36

1 SECTION 416. Arkansas Code § 15-4-2708(d)(1)(B), concerning the
2 granting of tax credits for research and development, is amended to read as
3 follows:

4 (B) Projects under the research and development programs
5 of the Division of Science and Technology of the Arkansas Economic
6 Development Commission when the projects directly involve an Arkansas
7 business and are approved by the ~~Executive~~ Director of the Arkansas Economic
8 Development Commission with the advice of the Board of Directors of the
9 Division of Science and Technology of the Arkansas Economic Development
10 Commission under rules promulgated by the division for those programs.
11

12 SECTION 417. Arkansas Code § 15-4-2708(e), concerning the granting of
13 tax credits for research and development, is amended to read as follows:

14 (e) To claim the credit granted under subsections (b)-(d) of this
15 section, the taxpayer shall file with his or her return, as an attachment to
16 the form prescribed by the ~~Director~~ Secretary of the Department of Finance
17 and Administration, copies of documentation to show that the ~~Executive~~
18 Director of the Arkansas Economic Development Commission has approved the
19 research expenditure as a part of a qualified in-house research program or
20 under the research and development programs of the division.
21

22 SECTION 418. Arkansas Code § 15-4-2709(c)(2)(A), concerning special
23 incentives based on payroll of targeted businesses, is amended to read as
24 follows:

25 (2)(A) The term of the financial incentive agreement shall be
26 established by the ~~Executive~~ Director of the Arkansas Economic Development
27 Commission for a period not to exceed five (5) years.
28

29 SECTION 419. Arkansas Code § 15-4-2709(c)(2)(C), concerning special
30 incentives based on payroll of targeted businesses, is amended to read as
31 follows:

32 (C) The ~~executive~~ director may allow a qualified targeted
33 business to sell any income tax credits earned through one (1) or more
34 incentives authorized by this subchapter.
35

36 SECTION 420. Arkansas Code § 15-4-2711(g)(2)(A), concerning the

1 administration of a sales and use tax refund, is amended to read as follows:

2 (2)(A) If the ~~Executive~~ Director of the Arkansas Economic
3 Development Commission and the ~~Director~~ Secretary of the Department of
4 Finance and Administration find that the approved business has presented
5 compelling reasons for an extension of time, the ~~Executive~~ Director of the
6 Arkansas Economic Development Commission may grant an extension of time not
7 to exceed forty-eight (48) months.

8
9 SECTION 421. Arkansas Code § 15-4-2711(i)(2), concerning the
10 administration of a sales and use tax refund, is amended to read as follows:

11 (2) The ~~Executive~~ Director of the Arkansas Economic Development
12 Commission and the ~~Director~~ Secretary of the Department of Finance and
13 Administration may approve the request for extension of time, not to exceed
14 twenty-four (24) months, for the business to bring the payroll back up to the
15 requisite threshold amount and may approve the continuation of benefits
16 during the period the extension is granted.

17
18 SECTION 422. Arkansas Code § 15-4-2711(1)(2)(B), concerning the
19 administration of a sales and use tax refund, is amended to read as follows:

20 (B) If the ~~Executive~~ Director of the Arkansas Economic
21 Development Commission finds that the business has presented compelling
22 reasons for an extension of time, the ~~Executive~~ Director of the Arkansas
23 Economic Development Commission may grant an extension of time not to exceed
24 twenty-four (24) months.

25
26 SECTION 423. Arkansas Code § 15-4-3005(e)(2)(D), concerning the State
27 of Arkansas general obligation economic development superprojects bonds, is
28 amended to read as follows:

29 (D) A certification by the ~~Executive~~ Director of the
30 Arkansas Economic Development Commission that each project to benefit from
31 the expenditure of the proceeds of the bonds consists of an investment in the
32 state of not less than four hundred million dollars (\$400,000,000) and the
33 creation of no fewer than four hundred (400) new permanent full-time jobs;
34 and

35
36 SECTION 424. Arkansas Code § 15-4-3202(4), concerning the definition

1 of "Chief Fiscal Officer of the State" under the Arkansas Amendment 82
2 Implementation Act, is amended to read as follows:

3 (4) "Chief Fiscal Officer of the State" means the Chief Fiscal
4 Officer of the State of Arkansas, who is also the ~~Director~~ Secretary of the
5 Department of Finance and Administration;

6
7 SECTION 425. Arkansas Code § 15-4-3202(6), concerning the definition
8 of "county average hourly wage" under the Arkansas Amendment 82
9 Implementation Act, is amended to read as follows:

10 (6) "County average hourly wage" means the weighted average weekly
11 earnings for Arkansas residents in all industries countywide as calculated by
12 the ~~Department~~ Division of Workforce Services in its most recent Annual
13 Covered Employment and Earnings publication, divided by forty (40);

14
15 SECTION 426. Arkansas Code § 15-4-3202(25), concerning the definition
16 of "state average hourly wage" under the Arkansas Amendment 82 Implementation
17 Act, is amended to read as follows:

18 (25) "State average hourly wage" means the weighted average
19 weekly earnings for Arkansas residents in all industries statewide as
20 calculated by the ~~Department~~ Division of Workforce Services in its most
21 recent Annual Covered Employment and Earnings publication, divided by forty
22 (40).

23
24 SECTION 427. Arkansas Code § 15-4-3203(h)(2)(G), concerning Amendment
25 82 project qualifications, is amended to read as follows:

26 (G) A statement by the ~~Executive~~ Director of the Arkansas
27 Economic Development Commission based on and outlining the:

- 28 (i) Terms of the letter of the commitment;
29 (ii) Estimated dollar amount of investment in the
30 state from the proposed project; and
31 (iii) Estimated number of new jobs to be created by
32 the proposed project;

33
34 SECTION 428. Arkansas Code § 15-4-3204 is amended to read as follows:
35 15-4-3204. Amendment 82 agreement.

36 As soon as practicable after the General Assembly's approval of the

1 issuance of bonds and before the Arkansas Development Finance Authority
2 issues bonds, the Governor, the Speaker of the House of Representatives, the
3 President Pro Tempore of the Senate, the ~~Executive~~ Director of the Arkansas
4 Economic Development Commission, the President of the Arkansas Development
5 Finance Authority, and the Chief Fiscal Officer of the State, all on behalf
6 of the state, and the sponsor of the qualified Amendment 82 project shall
7 execute the Amendment 82 agreement in substantially the same form as approved
8 by the General Assembly.

9
10 SECTION 429. Arkansas Code § 15-4-3206(b)(2), concerning the
11 compliance time period and audit requirements of Amendment 82, is amended to
12 read as follows:

13 (2)(A) Upon receipt of a request to extend the applicable time
14 period, the ~~executive director~~ Director of the Arkansas Economic Development
15 Commission shall immediately notify the ~~President of the Arkansas Development~~
16 ~~Finance Authority~~ Secretary of the Department of Commerce, the Chief Fiscal
17 Officer of the State, and the Governor.

18 (B) The ~~executive director, the president~~ Secretary of the
19 Department of Commerce, and the Chief Fiscal Officer of the State may approve
20 a request for a one-year extension upon a determination that there is a valid
21 economic reason for granting the extension.

22
23 SECTION 430. Arkansas Code § 15-4-3303(b)(1), concerning eligibility
24 for equity investment incentives, is amended to read as follows:

25 (b)(1) The award of the equity investment incentive tax credit to a
26 qualified business under subsection (a) of this section shall be determined
27 jointly at the discretion of the ~~Executive~~ Director of the Arkansas Economic
28 Development Commission with the advice of the Board of Directors of the
29 Division of Science and Technology of the Arkansas Economic Development
30 Commission and the President of the Arkansas Development Finance Authority.

31
32 SECTION 431. Arkansas Code § 15-4-3304(b)(4), concerning an
33 application for an equity investment incentive tax credit, is amended to read
34 as follows:

35 (4) Other information requested jointly by the ~~Executive~~
36 Director of the Arkansas Economic Development Commission and the President of

1 the Arkansas Development Finance Authority.

2
3 SECTION 432. Arkansas Code § 15-4-3501(c) and (d), concerning an
4 increased tax refund for major maintenance and improvement projects, are
5 amended to read as follows:

6 (c) The increased refund of sales and use taxes for major maintenance
7 and improvement projects provided in this section is a discretionary
8 incentive and is not available unless offered by the ~~Executive~~ Director of
9 the Arkansas Economic Development Commission.

10 (d) The ~~Executive~~ Director of the Arkansas Economic Development
11 Commission shall forward the taxpayer's application, financial incentive
12 agreement, any other pertinent documentation, and a written copy of the
13 determination under this subsection to the ~~Director~~ Secretary of the
14 Department of Finance and Administration if the ~~Executive~~ Director of the
15 Arkansas Economic Development Commission:

16 (1) Determines that the taxpayer is eligible for the increased
17 refund for major maintenance and improvement projects provided for in this
18 section;

19 (2) Determines that the taxpayer has provided reasonable proof
20 that there will be a positive return on the taxpayer's investment in the
21 major maintenance and improvement project that is sufficient to offset the
22 taxes refunded under this section;

23 (3) Determines that the taxpayer has provided a defined scope,
24 beginning date, and ending date for the major maintenance and improvement
25 project;

26 (4) Determines that the refund is reasonably necessary for the
27 taxpayer to remain competitive and preserve Arkansas jobs; and

28 (5) Agrees to provide the incentive under this section.

29
30 SECTION 433. Arkansas Code § 15-4-3501(h), concerning an increased tax
31 refund for major maintenance and improvement projects, is amended to read as
32 follows:

33 (h) The ~~Executive~~ Director of the Arkansas Economic Development
34 Commission and the ~~Director~~ Secretary of the Department of Finance and
35 Administration may promulgate rules necessary to implement this section.

36

1 SECTION 434. Arkansas Code § 15-4-3704(b)(3)-(5), concerning the
2 creation of the Arkansas Workforce Development Board, are amended to read as
3 follows:

4 (3) The Director of the ~~Department of Career Education~~ Adult
5 Education Section;

6 (4) The Director of the ~~Department~~ Division of Workforce
7 Services;

8 (5) The Director of Arkansas Rehabilitation Services ~~of the~~
9 ~~Department of Career Education~~;

10
11 SECTION 435. Arkansas Code § 15-4-3704(b)(7), concerning the creation
12 of the Arkansas Workforce Development Board, is amended to read as follows:

13 (7) The ~~Executive~~ Director of the Arkansas Economic Development
14 Commission;

15
16 SECTION 436. Arkansas Code § 15-4-3704(k)(2), concerning the creation
17 of the Arkansas Workforce Development Board, is amended to read as follows:

18 (2) Staff support shall be provided by the ~~Department~~ Division
19 of Workforce Services.

20
21 SECTION 437. Arkansas Code § 15-4-3705(b)(2)(D), concerning the
22 committees of the Arkansas Workforce Development Board, is amended to read as
23 follows:

24 (D) The Director of the ~~Department~~ Division of Workforce
25 Services; and

26
27 SECTION 438. The introductory language of Arkansas Code § 15-4-3706,
28 concerning the powers and duties of the Arkansas Workforce Development Board,
29 is amended to read as follows:

30 The Arkansas Workforce Development Board shall assist the Governor and
31 the Secretary of the Department of Commerce in:

32
33 SECTION 439. Arkansas Code § 15-4-3707(b), concerning the requirements
34 for the unified state workforce development plan, is amended to read as
35 follows:

36 (b) The state plan shall be a unified plan addressing services

1 available through all core programs and developed jointly by the ~~Department~~
2 Division of Workforce Services, the Adult Education Section, Arkansas
3 Rehabilitation Services, and the Division of State Services for the Blind ~~of~~
4 ~~the Department of Human Services~~, in coordination with the Arkansas Workforce
5 Development Board.

6
7 SECTION 440. Arkansas Code § 15-4-3707(c)(2)(E), concerning the
8 requirements for the unified state workforce development plan, is amended to
9 read as follows:

10 (E) How the ~~Department of Career Education~~ Adult Education
11 Section will, if applicable, align content standards for adult education with
12 state-adopted challenging academic content standards, as adopted under §
13 1111(b)(1) of the Elementary and Secondary Education Act of 1965, 20 U.S.C. §
14 6311(b)(1);

15
16 SECTION 441. Arkansas Code § 15-5-202(a)(1), concerning the board of
17 directors and members of the Arkansas Development Finance Authority, is
18 amended to read as follows:

19 (a)(1) The Board of Directors of the Arkansas Development Finance
20 Authority shall consist of the ~~Director~~ Secretary of the Department of
21 Finance and Administration or his or her designee, who shall serve during the
22 ~~director's~~ Secretary of the Department of Finance and Administration's
23 absence, ~~and~~ eleven (11) public members to be appointed by the Governor with
24 the advice and consent of the Senate, and the Secretary of the Department of
25 Commerce, who shall serve as a nonvoting member.

26
27 SECTION 442. Arkansas Code § 15-5-203(b) and (c), concerning the board
28 officers and employees of the Arkansas Development Finance Authority, are
29 amended to read as follows:

30 (b) The board shall also employ, with the approval of the Secretary of
31 the Department of Commerce, a president who shall serve at the will of the
32 ~~Governor~~ secretary.

33 (c) The board shall coordinate with the secretary to appoint and
34 employ such additional officers, accountants, financial advisors or experts,
35 bond counsel, or other attorneys, agents, and employees as it may require and
36 shall determine their qualifications, duties, and compensation. Periodically,

1 the Arkansas Development Finance Authority will review selection of bond
2 counsel or other attorneys to ensure that legal representatives are selected
3 in a manner that will provide the authority with competent, economical legal
4 representation that furthers the best interest of the authority.

5
6 SECTION 443. Arkansas Code § 15-5-207(b)(7), concerning the rights,
7 powers, privileges, and duties of the Arkansas Development Finance Authority,
8 is repealed.

9 ~~(7) To appoint officers, agents, and employees, prescribe their~~
10 ~~duties and qualifications, and fix their compensation;~~

11
12 SECTION 444. Arkansas Code § 15-5-210(a), concerning the annual report
13 by the Arkansas Development Finance Authority, is amended to read as follows:

14 (a) On or before January 31 of each year, the Arkansas Development
15 Finance Authority shall make an annual report of its activities for the
16 preceding fiscal year to the ~~Governor~~ Secretary of the Department of Commerce
17 and to the General Assembly.

18
19 SECTION 445. Arkansas Code § 15-5-212(a), concerning approval by the
20 Legislative Council for certain hires or selections by the Arkansas
21 Development Finance Authority, is amended to read as follows:

22 (a) The Arkansas Development Finance Authority or the Secretary of the
23 Department of Commerce on behalf of the Arkansas Development Finance
24 Authority shall not employ or select any investment banker, consultant,
25 professional financial advisor, or attorney unless the selection criteria to
26 be used in the selection have been submitted to the Legislative Council for
27 review.

28
29 SECTION 446. Arkansas Code § 15-5-214(b), concerning a criminal
30 background check by the Arkansas Development Finance Authority, is amended to
31 read as follows:

32 (b) The criminal background check shall be performed through the
33 Identification Bureau of the ~~Department~~ Division of Arkansas State Police and
34 the Federal Bureau of Investigation.

35
36 SECTION 447. Arkansas Code § 15-5-1603(8), concerning the definition

1 of "Venture Capital Investment Trust" under the Arkansas Risk Capital
2 Matching Fund Act of 2007, is amended to read as follows:

3 (8) "Venture Capital Investment Trust" means the public trust
4 formed July 21, 2003, under § 28-72-201 et seq., the trustees of which are
5 the President of the Arkansas Development Finance Authority, the ~~Executive~~
6 Director of the Arkansas Economic Development Commission, and the ~~Director~~
7 Secretary of the Department of Finance and Administration, or his or her
8 designee, and that has as a principal purpose increasing the availability of
9 equity capital and near-equity capital for emerging and expanding enterprises
10 in the State of Arkansas.

11
12 SECTION 448. Arkansas Code § 15-5-1707(b)(4), concerning the roles and
13 responsibilities of the Arkansas Housing Trust Fund Advisory Committee, is
14 amended to read as follows:

15 (4) Prepare, working with the staff of the authority or the
16 Department of Commerce, an annual review of the rules, compliance
17 responsibilities, set-asides, funding priorities, and funding decisions,
18 including any recommended changes, which review shall be presented to the
19 board for final approval; and

20
21 SECTION 449. Arkansas Code § 15-6-104(e), concerning the creation of
22 the Arkansas Rural Development Commission, is amended to read as follows:

23 (e) The Arkansas Rural Development Commission shall advise and assist
24 the ~~Executive~~ Director of the Arkansas Economic Development Commission in the
25 performance of his or her duties under this subchapter.

26
27 SECTION 450. Arkansas Code § 15-6-105 is amended to read as follows:

28 15-6-105. Rural Services Division of the Arkansas Economic Development
29 Commission.

30 (a) There is created the Rural Services Division of the Arkansas
31 Economic Development Commission.

32 (b) The head of the division shall be the ~~Executive~~ Director of the
33 Arkansas Economic Development Commission.

34 (c) ~~The division shall employ necessary staff to carry out the duties~~
35 ~~and functions of the division as otherwise provided in this chapter or as~~
36 ~~otherwise provided by law.~~

1 ~~(d)~~ The Governor shall direct that all state agencies provide the
2 ~~executive~~ director with assistance in advancing the purpose of the division
3 to assure that the activities of the division are fully coordinated with the
4 activities of state agencies providing related services.

5
6 SECTION 451. Arkansas Code § 15-6-106(a) and (b), concerning the
7 functions, powers, and duties of the Executive Director of the Arkansas
8 Economic Development Commission, are amended to read as follows:

9 (a) The ~~Executive~~ Director of the Arkansas Economic Development
10 Commission by and through the Rural Services Division of the Arkansas
11 Economic Development Commission shall have the following functions, powers,
12 and duties:

13 (1) To serve as a clearinghouse and provide comprehensive
14 information relating to rural development and revitalization upon request to
15 any agency, individual, or corporation;

16 (2) To advise and assist agencies, individuals, and corporations
17 in answering particular rural revitalization and development needs, including
18 cooperative efforts among such agencies, individuals, and corporations to
19 solve common problems or provide services in these areas;

20 (3)(A) To receive notification from all state and federal
21 agencies, individuals, or corporations engaged in rural development and
22 revitalization of program descriptions, appropriation data, and application
23 procedures.

24 (B) The division shall maintain a listing of existing
25 programs and advise local agencies, individuals, or corporations of their
26 existence;

27 (4) To assist, upon request, applicant local agencies,
28 individuals, or corporations located in rural areas in obtaining timely and
29 efficient responses from state and federal agencies, to assist such
30 applicants in consideration of alternative program grant strategies, to
31 assist state and federal agencies in cooperative approaches to address the
32 needs of such applicants, and to provide technical assistance to agencies in
33 formulating and implementing rural development and revitalization programs;

34 (5) To assist the ~~Governor~~ Secretary of the Department of
35 Commerce and the General Assembly in the integration and formulation of state
36 rural development and revitalization policy and long-range plans for rural

1 areas and in answering needs related thereto;

2 (6) To analyze and make recommendations concerning proposed new
3 state legislation or programs that may affect rural areas;

4 (7) To apply for and receive grants or financial assistance from
5 the federal government or other agencies, individuals, or corporations;

6 (8) To assist the ~~Governor~~ secretary in coordinating the
7 activities and services of those departments and agencies of the state having
8 relationships with local rural agencies, individuals, and corporations in
9 order to provide more effective service to them and to simplify state
10 procedures relating thereto;

11 (9) To keep the ~~Governor~~ secretary informed about the problems
12 and needs of agencies, individuals, and corporations that are involved with
13 rural development and revitalization and to assist in formulating policies
14 with respect thereto and utilizing the resources of state government for the
15 benefit of rural areas;

16 (10) To promote and encourage the establishment of a nonprofit
17 foundation, a Center for Rural Arkansas, and to cooperate and coordinate with
18 and assist the center in accessing state and federal government and private
19 nonprofit and corporate foundation grant funds to aid in rural development
20 and revitalization for rural Arkansas; and

21 (11) To administer the conservation education programs
22 established under § 6-16-1101 for the benefit of all school districts and
23 conservation districts in the state, regardless of population.

24 (b) The ~~executive~~ director may prescribe and issue, pursuant to the
25 Arkansas Administrative Procedure Act, § 25-15-201 et seq., such reasonable
26 rules as may be necessary to carry out the provisions of this chapter.

27
28 SECTION 452. Arkansas Code § 15-6-107(a), concerning assistance
29 programs and grants for the Rural Services Division of the Arkansas Economic
30 Development Commission, is amended to read as follows:

31 (a) The Rural Services Division of the Arkansas Economic Development
32 Commission shall request such specific information as the ~~Executive~~ Director
33 of the Arkansas Economic Development Commission determines to be necessary
34 concerning assistance programs and grants administered by federal, state, and
35 local agencies, individuals, and corporations designed to enhance rural
36 areas. The information shall be used to advise local agencies, individuals,

1 or corporations for the purpose of promoting coordination in program or grant
2 efforts wherever feasible or proper.

3
4 SECTION 453. The introductory language of Arkansas Code § 15-6-107(c),
5 concerning assistance programs and grants for the Rural Services Division of
6 the Arkansas Economic Development Commission, is amended to read as follows:

7 (c) The division, so far as possible, shall render such assistance,
8 and the ~~executive~~ director may designate an officer or employee of the
9 division to act as an expediter for the purpose of:

10
11 SECTION 454. Arkansas Code § 15-11-503(1) and (2), concerning the
12 definitions of "agreement" and "approved company" under the Arkansas Tourism
13 Development Act, are amended to read as follows:

14 (1) "Agreement" means an agreement entered into pursuant to §
15 15-11-506 by and between the ~~Executive~~ Director of the Arkansas Economic
16 Development Commission and an approved company with respect to a tourism
17 attraction project;

18 (2) "Approved company" means any eligible company that is
19 seeking to undertake a tourism attraction project and is approved by the
20 ~~executive~~ director pursuant to §§ 15-11-505 and 15-11-506;

21
22 SECTION 455. Arkansas Code § 15-11-503(4), concerning the definition
23 of "eligible company" under the Arkansas Tourism Development Act, is amended
24 to read as follows:

25 (4) "Eligible company" means any corporation, limited liability
26 company, partnership, registered limited liability partnership, sole
27 proprietorship, business trust, or any other entity that invests a minimum of
28 five hundred thousand dollars (\$500,000) in a high-unemployment county or one
29 million dollars (\$1,000,000) in any other county for the purpose of
30 constructing, operating, or intending to operate a tourism attraction
31 project, whether owned or leased, within the state that meets the standards
32 promulgated by the ~~executive~~ director pursuant to § 15-11-504;

33
34 SECTION 456. Arkansas Code § 15-11-503(5), concerning the definition
35 of "executive director" under the Arkansas Tourism Development Act, is
36 repealed.

1 ~~(5) “Executive director” means the Executive Director of the~~
2 ~~Arkansas Economic Development Commission or the executive director’s~~
3 ~~designated representative;~~
4

5 SECTION 457. Arkansas Code § 15-11-503(7), concerning the definition
6 of "high unemployment" under the Arkansas Tourism Development Act, is amended
7 to read as follows:

8 (7)(A) “High unemployment” means an unemployment rate equal to
9 or in excess of one hundred fifty percent (150%) of the state’s average
10 unemployment rate for the preceding calendar year as specified by statewide
11 annual labor force statistics compiled by the ~~Department~~ Division of
12 Workforce Services when the state’s annual average unemployment rate is six
13 percent (6%) or below.

14 (B) When the state’s annual average unemployment rate is
15 above six percent (6%), “high unemployment” means equal to or in excess of
16 three percent (3%) above the state’s average unemployment rate for the
17 preceding calendar year as specified by statewide annual labor force
18 statistics compiled by the ~~Department of Workforce Services~~ division;
19

20 SECTION 458. Arkansas Code § 15-11-504(a) and (b), concerning the
21 evaluation standards of applications for tourism attraction projects, are
22 amended to read as follows:

23 (a) The ~~Executive~~ Director of the Arkansas Economic Development
24 Commission shall establish standards for the making of applications for
25 inducements to eligible companies and their tourism attraction projects by
26 the promulgation of administrative regulations in accordance with the
27 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

28 (b) With respect to each eligible company making an application to the
29 ~~executive~~ director for inducements and with respect to the tourism attraction
30 project described in the application, the ~~executive~~ director shall make
31 inquiries and request materials of the applicant that shall include, but
32 shall not be limited to:

33 (1) Marketing plans for the tourism attraction project that
34 target individuals who are not residents of the state;

35 (2) A description and location of the tourism attraction
36 project;

1 (3) Capital and other anticipated expenditures for the tourism
2 attraction project that indicate that the total cost of the tourism
3 attraction project shall exceed five hundred thousand dollars (\$500,000) in a
4 high-unemployment county and one million dollars (\$1,000,000) in all other
5 counties and the anticipated sources of funding for the tourism attraction
6 project;

7 (4) The anticipated employment and wages to be paid at the
8 tourism attraction project;

9 (5) Business plans which indicate the average number of days in
10 a year in which the tourism attraction project will be in operation and open
11 to the public; and

12 (6) The anticipated revenues and expenses generated by the
13 tourism attraction project.
14

15 SECTION 459. Arkansas Code § 15-11-505 is amended to read as follows:

16 15-11-505. Standards for preliminary and final approval of companies
17 and projects.

18 (a) The ~~Executive~~ Director of the Arkansas Economic Development
19 Commission shall establish standards for final approval of eligible companies
20 and their tourism attraction projects by the promulgation of administrative
21 regulations in accordance with the Arkansas Administrative Procedure Act, §
22 25-15-201 et seq.

23 (b) The ~~Executive~~ Director of the Arkansas Economic Development
24 Commission shall obtain the review and advice of the ~~Director~~ Secretary of
25 the Department of Parks, Heritage, and Tourism prior to designating an entity
26 as an approved company eligible for the tourism incentive.

27 (c) The ~~Executive~~ Director of the Arkansas Economic Development
28 Commission may give approval by designating an eligible company as an
29 approved company and authorizing the undertaking of the tourism attraction
30 project.

31 (d) The ~~Executive~~ Director of the Arkansas Economic Development
32 Commission shall review the information that has been made available to the
33 ~~Executive~~ Director of the Arkansas Economic Development Commission in order
34 to determine whether the tourism attraction project will further the purposes
35 of this subchapter.

36 (e) The criteria for final approval of eligible companies and tourism

1 attraction projects shall include, but shall not be limited to, the criteria
2 set forth in § 15-11-504(c).

3 (f) After a review of the relevant materials, other information made
4 available to the ~~Executive~~ Director of the Arkansas Economic Development
5 Commission, the completion of other inquiries, and the review and advice of
6 the ~~Director~~ Secretary of the Department of Parks, Heritage, and Tourism, the
7 ~~Executive~~ Director of the Arkansas Economic Development Commission may give
8 final approval to the eligible company's application for a tourism attraction
9 project and may grant the approval to the eligible company in the form of a
10 financial incentive agreement.

11

12 SECTION 460. Arkansas Code § 15-11-506(a), concerning contracts with
13 the Arkansas Economic Development Commission for tourism attraction projects,
14 is amended to read as follows:

15 (a) Upon granting final approval, the ~~Executive~~ Director of the
16 Arkansas Economic Development Commission may enter into an agreement with an
17 approved company with respect to its tourism attraction project.

18

19 SECTION 461. Arkansas Code § 15-11-506(b)(1), concerning contracts
20 with the Arkansas Economic Development Commission for tourism attraction
21 projects, is amended to read as follows:

22 (1) The amount of approved costs, which shall be determined by
23 negotiations between the ~~Executive Director of the Arkansas Economic~~
24 ~~Development Commission~~ director and the approved company;

25

26 SECTION 462. Arkansas Code § 15-11-506(b)(2)(B), concerning contracts
27 with the Arkansas Economic Development Commission for tourism attraction
28 projects, is amended to read as follows:

29 (B) Within three (3) months of the completion date, the
30 approved company shall document the actual cost of the tourism attraction
31 project through a certification of such costs by an independent certified
32 public accountant acceptable to the ~~Executive Director of the Arkansas~~
33 ~~Economic Development Commission~~ director; and

34

35 SECTION 463. Arkansas Code § 15-11-506(b)(3)(A)(ii), concerning
36 contracts with the Arkansas Economic Development Commission for tourism

1 attraction projects, is amended to read as follows:

2 (ii) However, the term of the agreement may be
3 extended for up to two (2) additional years by the ~~Executive Director of the~~
4 ~~Arkansas Economic Development Commission~~ director with the advice and consent
5 of the ~~Director~~ Secretary of the Department of Finance and Administration, if
6 the ~~Executive Director of the Arkansas Economic Development Commission~~
7 director determines that:

8 (a) The failure to complete the tourism attraction
9 project within two (2) years resulted from unanticipated and unavoidable
10 delay in the construction of the tourism attraction project;

11 (b) The tourism attraction project as originally
12 planned will require more than two (2) years to complete; or

13 (c) The failure to complete the tourism attraction
14 project within two (2) years resulted from a merger, acquisition, or other
15 change in business ownership or business structure;

16

17 SECTION 464. Arkansas Code § 15-11-506(b)(3)(C), concerning contracts
18 with the Arkansas Economic Development Commission for tourism attraction
19 projects, is amended to read as follows:

20 (C) Within forty-five (45) days after the end of each
21 calendar year, the approved company shall supply the ~~Executive Director of~~
22 ~~the Arkansas Economic Development Commission~~ director with such reports and
23 certifications as the ~~Executive Director of the Arkansas Economic Development~~
24 ~~Commission~~ director may request, demonstrating to the satisfaction of the
25 ~~Executive Director of the Arkansas Economic Development Commission~~ director
26 that the approved company is in compliance with the provisions of this
27 subchapter; and

28

29 SECTION 465. Arkansas Code § 15-11-506(c) -(e), concerning contracts
30 for tourism attraction projects, are amended to read as follows:

31 (c) The agreement shall not be transferable or assignable by the
32 approved company without the written consent of the ~~Executive~~ Director of the
33 Arkansas Economic Development Commission.

34 (d) If the approved company utilizes sales tax credits which are
35 subsequently disallowed, then the approved company will be liable for the
36 payment to the ~~Director~~ Secretary of the Department of Finance and

1 Administration of all taxes resulting from the disallowance of the credits,
2 plus applicable penalties and interest.

3 (e) The ~~Executive Director of the Arkansas Economic Development~~
4 ~~Commission~~ director shall provide a copy of each agreement entered into with
5 an approved company to the ~~Director~~ Secretary of the Department of Finance
6 and Administration.

7

8 SECTION 466. Arkansas Code § 15-11-507(a) and (b), concerning tourism
9 attraction project sales tax credits, are amended to read as follows:

10 (a) Upon receiving notification from the ~~Executive~~ Director of the
11 Arkansas Economic Development Commission that an approved company has entered
12 into a tourism attraction project agreement and is entitled to the sales tax
13 credits provided by this subchapter, the ~~Director~~ Secretary of the Department
14 of Finance and Administration shall provide the approved company with such
15 forms and instructions as are necessary to claim those credits.

16 (b)(1)(A)(i)(a) An approved company shall be entitled to a credit if
17 the approved company certifies to the ~~Director~~ Secretary of the Department of
18 Finance and Administration that it has expended at least five hundred
19 thousand dollars (\$500,000) in a high-unemployment county and one million
20 dollars (\$1,000,000) in all other counties in approved costs and the
21 ~~Executive Director of the Arkansas Economic Development Commission~~ director
22 certifies that the approved company is in compliance with this subchapter.

23 (b)(1) The ~~Director~~ Secretary of the
24 Department of Finance and Administration shall then issue a sales tax credit
25 memorandum to the approved company equal to fifteen percent (15%) of the
26 approved costs.

27 (2) However, in high-unemployment
28 counties the ~~Director~~ Secretary of the Department of Finance and
29 Administration shall issue a credit memorandum to the approved company equal
30 to twenty-five percent (25%) of the approved costs.

31 (c) The sales tax credit memorandum shall not
32 include an offset of the tourism tax levied under § 26-63-401 et seq.

33 (ii) Subsequent requests for credit for additional
34 certified approved costs shall be filed with the Department of Finance and
35 Administration during the term of the agreement.

36 (B)(i) The ~~Director~~ Secretary of the Department of Finance

1 and Administration may require proof of expenditures.

2 (ii) Additional credit memoranda may be issued as
3 the approved company certifies additional expenditures of approved costs.

4 (2)(A) No sales tax credit memorandum shall be issued for any
5 approved costs expended after the expiration of two (2) years from the date
6 the agreement was signed by the ~~Executive Director of the Arkansas Economic~~
7 ~~Development Commission~~ director and the approved company.

8 (B) However, the ~~Executive Director of the Arkansas~~
9 ~~Economic Development Commission~~ director, with the advice and consent of the
10 ~~Director~~ Secretary of the Department of Finance and Administration, may
11 authorize sales tax credits for approved costs expended up to four (4) years
12 from the date the agreement was signed if the ~~Executive Director of the~~
13 ~~Arkansas Economic Development Commission~~ director determines that the failure
14 to complete the tourism attraction project within two (2) years resulted
15 from:

16 (i) Unanticipated and unavoidable delay in the
17 construction of the tourism attraction project;

18 (ii) The tourism attraction project, as originally
19 planned, will require more than two (2) years to complete; or

20 (iii) A change in business ownership or business
21 structure resulting from a merger or acquisition.

22
23 SECTION 467. Arkansas Code § 15-11-507(e)-(g), concerning tourism
24 attraction project sales tax credits, are amended to read as follows:

25 (e) By April 1 of each year, the ~~Director~~ Secretary of the Department
26 of Finance and Administration shall certify to the ~~Executive Director of the~~
27 ~~Arkansas Economic Development Commission~~ director the state sales tax
28 liability of the approved companies receiving inducements under this section
29 and the amount of state sales tax credits taken during the preceding calendar
30 year.

31 (f)(1) The ~~Director~~ Secretary of the Department of Finance and
32 Administration may promulgate administrative regulations as are necessary for
33 the proper administration of this subchapter.

34 (2) The ~~Director~~ Secretary of the Department of Finance and
35 Administration may also develop such forms and instructions as are necessary
36 for an approved company to claim the sales tax credit provided by this

1 subchapter.

2 (g)(1) The ~~Director~~ Secretary of the Department of Finance and
3 Administration shall have the authority to obtain any information necessary
4 from the approved company and the ~~Executive Director of the Arkansas Economic~~
5 ~~Development Commission~~ director to verify that approved companies have
6 received the proper amounts of sales tax credits as authorized by this
7 subchapter.

8 (2) The ~~Director~~ Secretary of the Department of Finance and
9 Administration shall demand the repayment of any credits taken in excess of
10 the credit allowed by this subchapter.

11

12 SECTION 468. Arkansas Code § 15-11-509(b), concerning an income tax
13 credit for tourism attraction projects, is amended to read as follows:

14 (b) Upon notification from the ~~Executive~~ Director of the Arkansas
15 Economic Development Commission that an approved company has entered into a
16 tourism attraction project agreement and is entitled to the income tax credit
17 provided by this section, the ~~Director~~ Secretary of the Department of Finance
18 and Administration shall provide the approved company with such forms and
19 instructions as are necessary to claim those credits.

20

21 SECTION 469. Arkansas Code § 15-11-511(d)(1)-(3), concerning special
22 rules and qualified amusement parks, are amended to read as follows:

23 (d)(1) Notwithstanding the other provisions of this subchapter, a
24 qualified amusement park that on or after January 1, 2006, enters into an
25 agreement that provides that the qualified amusement park shall expend
26 approved costs of more than one million dollars (\$1,000,000) shall be
27 entitled to a sales tax credit if the qualified amusement park certifies to
28 the ~~Director~~ Secretary of the Department of Finance and Administration that
29 it has expended at least one million dollars (\$1,000,000) in approved costs
30 and the ~~Executive~~ Director of the Arkansas Economic Development Commission
31 certifies that the qualified amusement park is in compliance with this
32 subchapter.

33 (2) The ~~Director~~ Secretary of the Department of Finance and
34 Administration shall then issue a sales tax credit memorandum to the
35 qualified amusement park equal to twenty-five percent (25%) of the approved
36 costs. The sales tax credit memorandum may be used to offset the liability of

1 the qualified amusement park for:

2 (A) Gross receipts tax levied under the Arkansas Gross
3 Receipts Act of 1941, § 26-52-101 et seq.; and

4 (B) Tourism gross receipts tax levied under § 26-52-1001
5 et seq. [repealed].

6 (3) The ~~Director~~ Secretary of the Department of Finance and
7 Administration may require proof of expenditures.

8

9 SECTION 470. Arkansas Code § 15-11-511(d)(5), concerning special rules
10 and qualified amusement parks, is amended to read as follows:

11 (5)(A) No sales tax credit memorandum shall be issued for any
12 approved costs expended after the expiration of two (2) years from the date
13 the agreement was signed by the ~~Executive Director of the Arkansas Economic~~
14 ~~Development Commission~~ director and the qualified amusement park.

15 (B) However, the ~~Director~~ Secretary of the Department of
16 Finance and Administration, with the advice and consent of the ~~Executive~~
17 ~~Director of the Arkansas Economic Development Commission~~ director, may
18 authorize sales tax credits for approved costs expended up to four (4) years
19 from the date the agreement was signed if the ~~Executive Director of the~~
20 ~~Arkansas Economic Development Commission~~ director determines that the failure
21 to complete the tourism attraction project within two (2) years resulted
22 from:

23 (i) Unanticipated and unavoidable delay in the
24 construction of the tourism attraction project;

25 (ii) The tourism attraction project, as originally
26 planned, will require more than two (2) years to complete; or

27 (iii) A change in business ownership or business
28 structure resulting from a merger or an acquisition.

29

30 SECTION 471. Arkansas Code § 15-11-511(d)(8), concerning special rules
31 and qualified amusement parks, is amended to read as follows:

32 (8) By April 1 of each year, the ~~Director~~ Secretary of the
33 Department of Finance and Administration shall certify to the ~~Executive~~
34 ~~Director of the Arkansas Economic Development Commission~~ director the state
35 sales tax liability of the qualified amusement parks receiving inducements
36 under this section and the amount of state sales tax credits taken during the

1 preceding calendar year.

2

3 SECTION 472. Arkansas Code § 15-23-203 is amended to read as follows:
4 15-23-203. Employees.

5 The Arkansas Waterways Commission may employ ~~an Executive~~ a Director of
6 the Arkansas Waterways Commission ~~and such other employees~~ as authorized by
7 law and fix the ~~salaries thereof~~ salary of the director within the
8 limitations of funds appropriated therefor to assist the commission in the
9 performance of its duties under this subchapter.

10

11 SECTION 473. Arkansas Code § 17-25-402(b)(1), concerning the expenses
12 and disposition of funds of the Contractors Licensing Board, is amended to
13 read as follows:

14 (b)(1) All taxes, premiums, contributions, penalties, interest, and
15 fines collected pursuant to this subchapter, except enforcement penalties,
16 shall be distributed pro rata, based upon the amount of taxes, premiums, and
17 contributions due to the Department of Finance and Administration, the
18 ~~Department~~ Division of Workforce Services, the Workers' Compensation
19 Commission, or any city, county, or school district, or any other state
20 agency or other political subdivision of the state, first to the extent of
21 any taxes, premiums, and contributions due with any remainder applied to
22 interest, penalties, and fines, in that order.

23

24 SECTION 474. Arkansas Code § 17-25-404(b)(3), concerning bond filing
25 and terms with the Contractors Licensing Board, is amended to read as
26 follows:

27 (3) Conditioned on the contractor's complying with the tax laws
28 of the State of Arkansas and, when applicable, the ordinances, rules, and
29 regulations of any city, county, school district, state agency, or other
30 political subdivision of the state, the ~~Department~~ Division of Workforce
31 Services Law, § 11-10-101 et seq., the Workers' Compensation Law, § 11-9-101
32 et seq., and the provisions of this subchapter.

33

34 SECTION 475. Arkansas Code § 17-25-406(a)(1), concerning the notice of
35 bond cancellation, is amended to read as follows:

36 (a)(1) Notice of bond cancellation shall be given to the Contractors

1 Licensing Board in writing sixty (60) days before cancellation. The board
2 shall notify the Department of Finance and Administration, the ~~Department~~
3 Division of Workforce Services, and the Workers' Compensation Commission of
4 the notice of cancellation.

5
6
7 SECTION 476. Arkansas Code § 17-38-201(a)(2)(B), concerning the powers
8 and duties of the State Board of Health, is amended to read as follows:

9 (B) The ~~Director~~ Secretary of the Department of Health or
10 any employee of the Department of Health designated by the ~~board~~ State Board
11 of Health may act for the State Board of Health except in adoption of rules
12 and regulations;

13
14 SECTION 477. Arkansas Code § 17-38-202(b), concerning the appointment
15 and duties of the Committee of Plumbing Examiners, is amended to read as
16 follows:

17 (b) The member from the department shall serve on the committee until
18 replaced by the ~~Director~~ Secretary of the Department of Health.

19
20 SECTION 478. Arkansas Code § 17-38-401(3), concerning the definition
21 of "department" under the apprentice plumber program, is repealed.

22 ~~(3) "Department" means the Department of Career Education.~~

23
24 SECTION 479. Arkansas Code § 17-38-402(3)(A), concerning the powers of
25 the Career Education and Workforce Development Board, is amended to read as
26 follows:

27 (A) The ~~Department of Career Education~~ Office of Skills
28 Development;

29
30 SECTION 480. Arkansas Code § 17-38-402(4), concerning the powers of
31 the Career Education and Workforce Development Board, is repealed.

32 ~~(4) To review and approve a correspondence course for apprentice~~
33 ~~plumbers in hardship cases, provided that:~~

34 ~~(A) The Department of Education will maintain the~~
35 ~~responsibility for a correspondence course. However, the Department of~~
36 ~~Education shall delegate the administration of the correspondence course to~~

1 ~~the Department of Career Education;~~

2 ~~(B) The correspondence course material shall be developed~~
3 ~~by the Department of Education, subject to the approval of the State~~
4 ~~Apprenticeship Committee and the Department of Health, and made available and~~
5 ~~to be implemented by the local apprenticeship committee; and~~

6 ~~(C) The apprentice is tested for adequate progress no~~
7 ~~fewer than four (4) times a year.~~

8
9 SECTION 481. Arkansas Code § 17-38-403(c), concerning the State
10 Apprenticeship Committee, is amended to read as follows:

11 (c) The Director of the ~~Department of Career Education~~ Office of
12 Skills Development or his or her designee shall serve as a nonvoting advisory
13 member to the committee.

14
15 SECTION 482. Arkansas Code § 17-38-407 is amended to read as follows:
16 17-38-407. Fees for correspondence courses.

17 The ~~Department of Career Education~~ Office of Skills Development is
18 authorized to charge reasonable fees to those persons approved for
19 correspondence courses for the costs of development, procurement,
20 administration, and material associated with the correspondence course.

21
22 SECTION 483. Arkansas Code § 17-38-408 is amended to read as follows:
23 17-38-408. Disposition of fees and payments – Uses of funds.

24 (a) All fees or payments of any type collected by the ~~Department of~~
25 ~~Career Education~~ Office of Skills Development under this subchapter shall be
26 deposited into the State Treasury on or before the fifth day of the month
27 next following the month of collection of the fees or payments. The Treasurer
28 of State shall credit the fees or payments to the credit of the Apprentice
29 Plumbers Training Fund which is hereby created on the books of the Treasurer
30 of State.

31 (b) All funds deposited into the Apprentice Plumbers Training Fund
32 shall be used for the maintenance, operation, and improvement of the
33 apprentice plumbers training program administered by the ~~department~~ office.

34
35 SECTION 484. Arkansas Code § 19-5-701 is amended to read as follows:
36 19-5-701. Purpose.

1 It is the purpose of this subchapter that all programs, regardless of
2 their funding source, contribute equally to the cost of unemployment
3 compensation benefits charged to the state agencies operating such programs.
4 It is not the intent of this subchapter that the State of Arkansas relinquish
5 its status as a nontaxable reimbursable employer under the ~~Department~~
6 Division of Workforce Services Law, § 11-10-101 et seq.

7
8 SECTION 485. Arkansas Code § 19-5-702(1), concerning the definition of
9 "contribution" under the laws governing the reimbursement of unemployment
10 compensation benefits, is amended to read as follows:

11 (1) "Contribution" means a percentage of payroll expenditures
12 paid to the Unemployment Compensation Revolving Fund by a state agency in
13 order to provide current and timely reimbursements of benefits paid by the
14 ~~Department~~ Division of Workforce Services Law, § 11-10-101 et seq., for
15 unemployment benefits charged to the agency;

16
17 SECTION 486. Arkansas Code § 19-5-704(b), concerning the
18 administration reimbursement of unemployment compensation benefits, is
19 amended to read as follows:

20 (b) Upon certification to the Chief Fiscal Officer of the State by the
21 ~~Department~~ Division of Workforce Services of unemployment compensation
22 benefits paid during a benefit period and charged to a state agency, the
23 Chief Fiscal Officer of the State shall direct that reimbursement be made to
24 the ~~department~~ division from the Unemployment Compensation Revolving Fund for
25 such amounts as are properly certified.

26
27 SECTION 487. Arkansas Code § 19-5-706(c), concerning the Unemployment
28 Compensation Revolving Fund, is amended to read as follows:

29 (c) The funds shall be used to reimburse the ~~Department~~ Division of
30 Workforce Services, in a timely manner, for unemployment compensation
31 benefits paid by the ~~department~~ division and charged to a state agency, as
32 provided in this subchapter and other laws applicable to state employees'
33 unemployment compensation and for such other purposes as may be authorized by
34 law.

35
36 SECTION 488. Arkansas Code § 19-5-709(a), concerning loans to the

1 Unemployment Compensation Revolving Fund, is amended to read as follows:

2 (a) In the event that the Unemployment Compensation Revolving Fund
3 does not have sufficient funds available from contributions by state agencies
4 to make reimbursement to the ~~Department~~ Division of Workforce Services for
5 benefits paid, loans may be made from the Budget Stabilization Trust Fund to
6 make such payments.

7

8 SECTION 489. Arkansas Code § 19-5-912 is amended to read as follows:
9 19-5-912. ~~Department~~ Division of Workforce Services Trust Fund.

10 (a) There is established on the books of the Treasurer of State, the
11 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
12 be known as the "~~Department~~ Division of Workforce Services Trust Fund".

13 (b) The fund shall consist of such revenues as may be authorized by
14 the federal government for support of various programs within the ~~Department~~
15 Division of Workforce Services, any interest accruing on these revenues, and
16 any other funds made available by the General Assembly.

17 (c) The fund shall be used for the payment of program expenses of the
18 ~~department~~ division.

19

20 SECTION 490. Arkansas Code § 19-5-939(c), concerning the Unemployment
21 Compensation Revolving Fund, is amended to read as follows:

22 (c) The funds shall be used to reimburse the ~~Department~~ Division of
23 Workforce Services, in a timely manner, for unemployment compensation
24 benefits paid by the ~~department~~ division and charged to a state agency, as
25 provided in § 19-5-701 et seq., and other laws applicable to state employees'
26 unemployment compensation and for such other purposes as may be authorized by
27 law.

28

29 SECTION 491. Arkansas Code § 19-5-984 is amended to read as follows:
30 19-5-984. ~~Department~~ Division of Workforce Services Special Fund.

31 (a) There is established on the books of the Treasurer of State, the
32 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
33 known as the "~~Department~~ Division of Workforce Services Special Fund".

34 (b)(1) The fund shall consist of unemployment compensation
35 contribution interest and penalty payments collected under §§ 11-10-716 – 11-
36 10-723 and interest and penalty payments on overpayments collected under §

1 11-10-532.

2 (2) The fund shall be used for refunds of interest and penalties
3 erroneously paid and other additional purposes necessary to the proper
4 administration of the ~~Department~~ Division of Workforce Services Law, § 11-10-
5 101 et seq., as determined by the Director of the ~~Department~~ Division of
6 Workforce Services under §§ 11-10-532 and 11-10-716 – 11-10-723.

7 (c) The director shall report to the Legislative Council on a
8 quarterly basis on all uses of the fund.

9

10 SECTION 492. Arkansas Code § 19-5-999(a), concerning the Individual
11 Development Account Trust Fund, is amended to read as follows:

12 (a) There is created on the books of the Treasurer of State, the
13 Auditor of State, and the Chief Fiscal Officer of the State a trust fund for
14 the ~~Department~~ Division of Workforce Services to be designated the
15 “Individual Development Account Trust Fund”.

16

17 SECTION 493. Arkansas Code § 19-5-1097(b), concerning the Public Roads
18 Incentive Fund, is amended to read as follows:

19 (b) The fund shall consist of contributions made by taxpayers for
20 public roads projects approved by the ~~Executive~~ Director of the Arkansas
21 Economic Development Commission and any other funds as are designated or
22 deposited into the fund by law.

23

24 SECTION 494. Arkansas Code § 19-5-1097(c)(2), concerning the Public
25 Roads Incentive Fund, is amended to read as follows:

26 (2) Any contributions which remain in the fund when a project is
27 completed or terminated shall be held and applied to other public roads
28 projects in such manner as the ~~executive~~ director shall direct.

29

30 SECTION 495. Arkansas Code § 19-5-1131 is amended to read as follows:

31 19-5-1131. ~~Department~~ Division of Workforce Services Training Trust
32 Fund.

33 (a) There is established on the books of the Treasurer of State, the
34 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
35 be known as the “~~Department~~ Division of Workforce Services Training Trust
36 Fund”.

1 (b)(1) The fund shall consist of the proceeds of the stabilization tax
2 specified in § 11-10-706(f), any interest accruing on these revenues, and any
3 other funds made available by the General Assembly.

4 (2) The fund shall be used for worker training under rules and
5 regulations promulgated by the Director of the ~~Department~~ Division of
6 Workforce Services.

7 (c) The director shall report to the Legislative Council on a
8 quarterly basis on all uses of the fund.

9
10 SECTION 496. Arkansas Code § 19-5-1232 is amended to read as follows:

11 19-5-1232. ~~Department~~ Division of Workforce Services Unemployment
12 Insurance Administration Fund.

13 (a) There is established on the books of the Treasurer of State, the
14 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
15 fund to be known as the "~~Department~~ Division of Workforce Services
16 Unemployment Insurance Administration Fund".

17 (b)(1) The fund shall consist of the proceeds of the stabilization tax
18 as specified in § 11-10-706(f), any interest accruing on these revenues, and
19 any other funds made available by the General Assembly.

20 (2) The fund shall be used for personal services and operating
21 expenses of the unemployment insurance program necessary to the proper
22 administration of the ~~Department~~ Division of Workforce Services Law, § 11-10-
23 101 et seq., as determined by the Director of the ~~Department~~ Division of
24 Workforce Services.

25 (c) The ~~Director of the Department of Workforce Services~~ director
26 shall report to the Legislative Council on a quarterly basis on all uses of
27 the fund.

28
29 SECTION 497. Arkansas Code § 19-5-1234 is amended to read as follows:

30 19-5-1234. ~~Department~~ Division of Workforce Services Fund.

31 (a) There is created on the books of the Treasurer of State, the
32 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
33 known as the "~~Department~~ Division of Workforce Services Fund".

34 (b) The fund shall consist of those general revenues as may be
35 authorized by law and any other nonfederal funds as may be provided by law.

36 (c) The fund shall be used for the maintenance, operation, and

1 improvement required by the ~~Department~~ Division of Workforce Services in
2 carrying out those powers, functions, and duties imposed by law upon the
3 Director of the ~~Department~~ Division of Workforce Services as set out in the
4 ~~Department~~ Division of Workforce Services Law, § 11-10-101 et seq., and § 20-
5 76-101 et seq., or any other duties that may be imposed by law upon the
6 ~~department~~ division, including those duties transferred to the ~~department~~
7 division under the provisions of § 20-76-111 [repealed].

8
9 SECTION 498. Arkansas Code § 19-6-402 is amended to read as follows:

10 19-6-402. ~~Arkansas Department~~ Division of Aeronautics Fund.

11 The ~~Arkansas Department~~ Division of Aeronautics Fund shall
12 consist of those special revenues as specified in § 19-6-301(17), there to
13 be used for making grants-in-aid to qualifying airports of this state as
14 authorized by law and for the maintenance, operation, and improvement
15 required by the ~~Arkansas Department~~ Division of Aeronautics in carrying out
16 the functions, powers, and duties, as set out in § 27-114-101 et seq., or
17 other duties imposed by law upon the ~~department~~ division.

18
19 SECTION 499. Arkansas Code § 19-10-204(b)(1)(A)(i)(b), concerning
20 jurisdiction of the Arkansas State Claims Commission, is amended to read as
21 follows:

22 (b) The ~~Department~~ Division of Workforce
23 Services Law, § 11-10-101 et seq.;

24
25 SECTION 500. Arkansas Code § 19-10-204(b)(1)(A)(iii)(a), concerning
26 the jurisdiction of the Arkansas State Claims Commission, is amended to read
27 as follows:

28 (a) A claim by a member of the uniformed armed
29 services against the ~~State Military Department~~ Department of the Military,
30 the State ~~militia~~ Militia, or any subdivision thereof, if the claim arises
31 out of the performance of the claimant's military duty;

32
33 SECTION 501. Arkansas Code § 19-10-204(b)(1)(A)(iii)(b) and (c),
34 concerning jurisdiction of the Arkansas State Claims Commission, are amended
35 to read as follows:

36 (b) Claims against the ~~Department~~ Division of

1 Community Correction for acts committed by a person while that person is
2 subject to conditions of parole or probation under Arkansas law;

3 (c) Claims against the ~~Department~~ Division of
4 Correction for acts committed by inmates while on authorized release from the
5 ~~Department~~ Division of Correction; or
6
7

8 SECTION 502. Arkansas Code § 19-11-259(a)(2)(B)(ii), concerning the
9 definition of "firm resident in Arkansas" under the law regarding preferences
10 among bidders, is amended to read as follows:

11 (ii) For not fewer than two (2) successive years
12 immediately prior to submitting a bid, has paid taxes under the ~~Department~~
13 Division of Workforce Services Law, § 11-10-101 et seq., unless exempt, and
14 either the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the
15 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., on any property
16 used or intended to be used for or in connection with the firm's business;
17 and
18

19 SECTION 503. Arkansas Code § 19-12-115(c)(1), derived from Initiated
20 Act 1 of 2000 and concerning the establishment and administration of the
21 Arkansas Biosciences Institute, is amended to read as follows:

22 (c)(1) Arkansas Biosciences Institute Board. There is hereby
23 established the Arkansas Biosciences Institute Board which shall consist of
24 the following: the President of the University of Arkansas; the President of
25 Arkansas State University; the Chancellor of the University of Arkansas for
26 Medical Sciences; the Chancellor of the University of Arkansas at
27 Fayetteville; the Vice President for Agriculture of the University of
28 Arkansas; the ~~Executive~~ Director of the Arkansas Economic Development
29 Commission; the Director of the National Center for Toxicological Research;
30 the President of Arkansas Children's Hospital; and two (2) individuals
31 possessing recognized scientific, academic or business qualifications
32 appointed by the Governor. The two (2) members of the Arkansas Biosciences
33 Institute Board who are appointed by the Governor will serve four (4) year
34 terms and are limited to serving two consecutive four (4) year terms. The
35 terms shall commence on October 1 of each year. These members appointed by
36 the Governor are not entitled to compensation for their services, but may

1 receive expense reimbursement in accordance with § 25-16-902, to be paid from
2 funds appropriated for this program. The Arkansas Biosciences Institute Board
3 shall establish and appoint the members of an Industry Advisory Committee and
4 a Science Advisory Committee composed of knowledgeable persons in the fields
5 of industry and science. These Committees shall serve as resources for the
6 Arkansas Biosciences Institute Board in their respective areas and will
7 provide an avenue of communication to the Arkansas Biosciences Institute
8 Board on areas of potential research.

9
10 SECTION 504. Arkansas Code § 20-14-203(a), concerning ex officio
11 members of the Governor's Commission on People with Disabilities, is amended
12 to read as follows:

13 (a) The Director of ~~the Department of Human Services~~ Arkansas
14 Rehabilitation Services, the deputy director of the appropriate division as
15 determined by the ~~Director~~ Secretary of the Department of ~~Human Services~~
16 Commerce, and the Director of the ~~Department~~ Division of Workforce Services
17 or any director, commissioner, or administrator of successors' agencies shall
18 serve as ex officio members of the Governor's Commission on People with
19 Disabilities.

20
21 SECTION 505. Arkansas Code § 20-14-207(b)(1), concerning the Executive
22 Board of the Governor's Commission on People with Disabilities, is repealed.

23 ~~(1) Appointing, subject to the personnel law, such staff as is~~
24 ~~necessary to carry out the commission's objectives of the Governor's~~
25 ~~Commission on people with Disabilities;~~

26
27 SECTION 506. Arkansas Code § 20-14-209 is amended to read as follows:
28 20-14-209. Administrative support.

29 (a) The appropriate division as determined by the ~~Director of the~~
30 ~~Department of Human Services~~ Director of Arkansas Rehabilitation Services,
31 Secretary of the Department of Commerce, or any other agency or division as
32 the Governor shall designate shall provide administrative support to the
33 Governor's Commission on People with Disabilities.

34 (b) A representative of the ~~appropriate division as determined by the~~
35 ~~director or any other agency or division as the Governor shall designate~~
36 Secretary of the Department of Commerce shall be appointed as ~~executive~~

1 director to effect the coordination between the division and the Chair of the
2 Governor's Commission on People with Disabilities in the arrangement of the
3 support.

4
5 SECTION 507. Arkansas Code § 20-76-102(a) and (b), concerning
6 coordination of state agency service delivery of transitional employment
7 assistance services, are amended to read as follows:

8 (a) To ensure that all available state government resources are used
9 to help transitional employment assistance recipients make the transition
10 from welfare to work, each of the following state agencies and organizations
11 shall also be required to work with the ~~Department~~ Division of Workforce
12 Services in providing transitional employment assistance services:

13 (1) The Department of Human Services;

14 (2) The ~~Department~~ Division of Higher Education, including
15 community colleges and the University of Arkansas Cooperative Extension
16 Service;

17 (3) The ~~Department of Education~~ Division of Elementary and
18 Secondary Education;

19 (4) The Arkansas Development Finance Authority;

20 (5) The Arkansas Economic Development Council;

21 (6) The Arkansas Department of Transportation;

22 (7) The Department of Finance and Administration, including the
23 Office of Child Support Enforcement;

24 (8) The Adult Learning Alliance, Inc.;

25 (9) The ~~Department of Career Education~~ Adult Education Section
26 of the Division of Workforce Services; and

27 (10) Other state agencies as directed by the Governor or as
28 directed by the General Assembly.

29 (b) State agencies required under subsection (a) of this section to
30 work with the ~~Department~~ Division of Workforce Services in providing
31 transitional employment assistance services to recipients shall make every
32 effort to use financial resources in their respective budgets and to seek
33 additional funding sources, whether private or federal, to supplement the
34 moneys allocated by the ~~Department~~ Division of Workforce Services for the
35 Transitional Employment Assistance Program.

36

1 SECTION 508. The introductory language of Arkansas Code § 20-76-
2 106(a), concerning Transitional Employment Assistance Program and the
3 statewide implementation plan, is amended to read as follows:

4 (a) The ~~Department~~ Division of Workforce Services shall:
5

6 SECTION 509. Arkansas Code § 20-76-106(b)(1), concerning Transitional
7 Employment Assistance Program and the statewide implementation plan, is
8 amended to read as follows:

9 (1) Performance standards and measurement criteria for state and
10 county offices of the Department of Human Services, the ~~Department~~ Division
11 of Workforce Services, and all service providers under the program;
12

13 SECTION 510. Arkansas Code § 20-76-106(c)(1) and (2), concerning
14 Transitional Employment Assistance Program and the statewide implementation
15 plan, are amended to read as follows:

16 (c)(1)(A) The ~~Department~~ Division of Workforce Services shall prepare
17 a comprehensive annual program report.

18 (B) The report shall be subject to review and
19 recommendation by the board.

20 (2) The ~~Department~~ Division of Workforce Services shall submit
21 the comprehensive annual program report to the Governor, the House Committee
22 on Public Health, Welfare, and Labor, and the Senate Committee on Public
23 Health, Welfare, and Labor.
24

25 SECTION 511. The introductory language of Arkansas Code § 20-76-109,
26 concerning the use of contracts by the Department of Workforce Services, is
27 amended to read as follows:

28 The ~~Department~~ Division of Workforce Services, as appropriate, should
29 provide work activities, training, and other services through contracts. In
30 contracting for work activities, training, or services, the following apply:
31

32 SECTION 512. Arkansas Code § 20-76-109(4)(A), concerning the use of
33 contracts by the Department of Workforce Services, is amended to read as
34 follows:

35 (4)(A) The ~~department~~ division may contract with commercial,
36 charitable, or faith-based organizations.

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SECTION 513. Arkansas Code § 20-76-113(b) and (c), concerning promoting outcomes for the Transitional Employment Assistance Program and Arkansas Work Pays Program, are amended to read as follows:

(b) The ~~Department~~ Division of Workforce Services shall develop and maintain the indicators for the Transitional Employment Assistance Program outcomes listed in subdivisions (a)(1)-(5) of this section, subject to review and approval by the Arkansas Workforce Development Board.

(c)(1) The ~~Department of Workforce Services~~ division shall develop proper targets for each Transitional Employment Assistance Program outcome by July 1 of each year, subject to review and approval by the board.

(2) The ~~Department of Workforce Services~~ division shall review and report on progress in achieving the targets in the comprehensive annual program report.

(3)(A) On the forty-fifth day after the end of the federal fiscal year, the report shall be submitted to the Governor and to the Chair of the House Committee on Public Health, Welfare, and Labor and the Chair of the Senate Committee on Public Health, Welfare, and Labor.

(B) The report shall include comments from the Department of Human Services, the ~~Department~~ Division of Workforce Services, and other relevant state agencies about their activities and their progress toward the Transitional Employment Assistance Program outcome targets.

SECTION 514. Arkansas Code § 20-76-209(a), concerning payment of certain contributions and withholdings by Department of Human Services, is amended to read as follows:

(a) The appropriate division of the Department of Human Services is authorized to pay the employer's portion of contributions and withholdings required by the federal and state income tax laws, the Federal Insurance Contributions Law, the Workers' Compensation Law, § 11-9-101 et seq., and the ~~Department~~ Division of Workforce Services Law, § 11-10-101 et seq., in all cases wherein the recipient has been determined to be the employer of the provider and, as such, required to withhold an amount from the employee's wage and contribute an amount based upon the wages under the provisions of the above enumerated acts.

1 SECTION 515. Arkansas Code § 20-76-210(a), concerning the payment of
2 certain contributions and withholdings for certain nursing home care
3 projects, is amended to read as follows:

4 (a) The appropriate division of the Department of Human Services is
5 authorized to pay the employer's portion of contributions and withholdings
6 required by the federal and state income tax laws, the Federal Insurance
7 Contributions Act, the Workers' Compensation Law, § 11-9-101 et seq., and the
8 ~~Department~~ Division of Workforce Services Law, § 11-10-101 et seq., in all
9 cases wherein the homemaker and home health aid trainee is participating in
10 the subsidized employment project to prevent premature nursing home care.
11

12 SECTION 516. Arkansas Code § 20-76-214(a), concerning the payment of
13 certain contributions and withholdings related to transitional employment
14 assistance, is amended to read as follows:

15 (a) The Department of Human Services is authorized to pay the
16 employer's portion of contributions and withholdings required by the federal
17 and state income tax laws, the Federal Insurance Contributions Act, the
18 Workers' Compensation Law, § 11-9-101 et seq., the ~~Department~~ Division of
19 Workforce Services Law, § 11-10-101 et seq., and private medical insurance
20 premiums for eligible individuals where that is necessary to achieve
21 employment assistance.
22

23 SECTION 517. Arkansas Code § 20-76-401(a)(2) and (3), concerning
24 eligibility for the Transitional Employment Assistance Program, are amended
25 to read as follows:

26 (2)(A) The Transitional Employment Assistance Program shall be
27 administered by the Department of Human Services and the ~~Department~~ Division
28 of Workforce Services.

29 (B) Subject to the order of the Governor, the ~~Department~~
30 Division of Workforce Services may take full authority for administering the
31 Transitional Employment Assistance Program.

32 (C) The ~~Department~~ Division of Workforce Services may
33 contract with the Department of Human Services for administrative services.

34 (3) The ~~Department~~ Division of Workforce Services may operate a
35 separate Transitional Employment Assistance Program Two-Parent Program funded
36 by state funds not claimed for the federal Temporary Assistance for Needy

1 Families program maintenance of effort requirement if the Director of the
2 ~~Department~~ Division of Workforce Services deems such action necessary to
3 avoid the risk of not meeting the two-parent work participation rate.
4

5 SECTION 518. The introductory language of Arkansas Code § 20-76-
6 402(a), concerning work activities of the Department of Workforce Services,
7 is amended to read as follows:

8 (a) The ~~Department~~ Division of Workforce Services shall develop and
9 describe categories of approved work activities for transitional employment
10 assistance recipients in accordance with this section. The rules shall be
11 subject to review and recommendation by the Arkansas Workforce Development
12 Board. Approved work activities may include unsubsidized employment,
13 subsidized private sector employment, subsidized public sector employment,
14 education or training, vocational educational training, skills training, job
15 search and job readiness assistance, on-the-job training, micro enterprise,
16 community service, and work experience. For purposes of this section:
17

18 SECTION 519. The introductory language of Arkansas Code § 20-76-
19 402(a)(2)(A), concerning work activities of the Department of Workforce
20 Services, is amended to read as follows:

21 (2)(A) "Subsidized private sector employment" is employment in a
22 private for-profit enterprise or a private not-for-profit enterprise which is
23 directly supplemented by federal or state funds. A program recipient in
24 subsidized private sector employment shall be eligible for the same benefits
25 as a nonsubsidized employee who performs similar work. Before receiving any
26 subsidy or incentive, an employer shall enter into a written contract with
27 the ~~Department~~ Division of Workforce Services which may include, but not be
28 limited to, provisions addressing any of the following:
29

30 SECTION 520. Arkansas Code § 20-76-402(a)(2)(A)(v), concerning work
31 activities of the Department of Workforce Services, is amended to read as
32 follows:

33 (v) Weighting of incentive payments proportionally
34 to the extent to which the recipient has limitations associated with the
35 long-term receipt of welfare and difficulty in sustaining employment. In
36 establishing incentive payments, the ~~Department~~ Division of Workforce

1 Services shall consider the extent of the recipient's prior receipt of
2 welfare, lack of employment experience, lack of education, lack of job
3 skills, and other appropriate factors.

4
5 SECTION 521. Arkansas Code § 20-76-402(a)(2)(B), concerning work
6 activities of the Department of Workforce Services, is amended to read as
7 follows:

8 (B) The ~~Department~~ Division of Workforce Services may
9 require an employer to repay some or all of a subsidy or incentive previously
10 paid to an employer under the program unless the recipient is terminated for
11 cause;

12
13 SECTION 522. The introductory language of Arkansas Code § 20-76-
14 402(a)(3)(A), concerning work activities of the Department of Workforce
15 Services, is amended to read as follows:

16 (3)(A) "Subsidized public sector employment" is employment by an
17 agency of the federal, state, or local government which is directly
18 supplemented by federal or state funds. A program recipient in subsidized
19 public sector employment shall be eligible for the same benefits as a
20 nonsubsidized employee who performs similar work. Before receiving any
21 subsidy or incentive, an employer shall enter into a written contract with
22 the ~~Department~~ Division of Workforce Services that may include, but not be
23 limited to, provisions addressing any of the following:

24
25 SECTION 523. Arkansas Code § 20-76-402(a)(3)(A)(v), concerning work
26 activities of the Department of Workforce Services, is amended to read as
27 follows:

28 (v) Weighting of incentive payments proportionally
29 to the extent to which the recipient has limitations associated with the
30 long-term receipt of welfare and difficulty in sustaining employment. In
31 establishing incentive payments, the ~~Department~~ Division of Workforce
32 Services shall consider the extent of the recipient's prior receipt of
33 welfare, lack of employment experience, lack of education, lack of job
34 skills, and other appropriate factors.

35
36 SECTION 524. Arkansas Code § 20-76-402(a)(3)(B), concerning work

1 activities of the Department of Workforce Services, is amended to read as
2 follows:

3 (B) The ~~Department~~ Division of Workforce Services may
4 require an employer to repay some or all of a subsidy and incentive
5 previously paid to an employer under the program unless the recipient is
6 terminated for cause;

7
8 SECTION 525. Arkansas Code § 20-76-402(b)(1), concerning work
9 activities of the Department of Workforce Services, is amended to read as
10 follows:

11 (1) Be on the statewide or appropriate area list of occupations
12 in the "Guide to Educational Training Programs for Demand Occupations"
13 published by the ~~Department~~ Division of Workforce Services;

14
15 SECTION 526. Arkansas Code § 20-76-402(d), concerning work activities
16 of the Department of Workforce Services, is amended to read as follows:

17 (d)(1) The ~~Department~~ Division of Workforce Services shall require
18 participation in approved work activities to the maximum extent possible,
19 subject to federal and state funding. If funds are projected to be
20 insufficient to support full-time work activities by all program recipients
21 who are required to participate in work activities, the ~~Department~~ Division
22 of Workforce Services shall screen recipients and assign priority in
23 accordance with the implementation plan.

24 (2) In accordance with the implementation plan, the ~~Department~~
25 Division of Workforce Services may limit a recipient's weekly work
26 requirement to the minimum required to meet federal work activity
27 requirements and may develop screening and prioritization procedures within
28 employment opportunity districts or within counties based on the allocation
29 of resources, the availability of community resources, or the work activity
30 needs of the employment opportunity district or county.

31
32 SECTION 527. Arkansas Code § 20-76-402(e)(3), concerning work
33 activities of the Department of Workforce Services, is amended to read as
34 follows:

35 (3) The ~~Department~~ Division of Workforce Services shall
36 establish and maintain a grievance procedure for resolving complaints of

1 alleged violations of subdivision (e)(2) of this section.

2

3 SECTION 528. The introductory language of Arkansas Code § 20-76-
4 402(f), concerning work activities of the Department of Workforce Services,
5 is amended to read as follows:

6 (f) The ~~Department~~ Division of Workforce Services, subject to review
7 and recommendation by the board, shall establish criteria to exempt or
8 temporarily defer the following persons from any work activity requirement:

9

10 SECTION 529. Arkansas Code § 20-76-402(f)(9), concerning work
11 activities of the Department of Workforce Services, is amended to read as
12 follows:

13 (9) An individual who, as determined by a ~~Department~~ Division of
14 Workforce Services case manager, is unable to participate in work activities
15 due directly to the effects of domestic violence. All case manager
16 determinations made under this subdivision (f)(9) shall be reviewed by a
17 supervisor within five (5) days of such determination;

18

19 SECTION 530. Arkansas Code § 20-76-404 is amended to read as follows:

20 20-76-404. Duration of assistance – Extended support services.

21 (a)(1) ~~Beginning July 1, 1998, the Department~~ The Division of
22 Workforce Services shall not provide financial assistance to a family that
23 includes an adult recipient who has received financial assistance for more
24 than twenty-four (24) months, except as provided in subsection (c) of this
25 section.

26 (2) The number of months need not be consecutive and shall
27 include the time a recipient receives financial assistance from another
28 state.

29 (3) The ~~Department~~ Division of Workforce Services may by
30 regulation establish other limitations on the receipt of financial assistance
31 not inconsistent with state or federal law.

32 (b)(1) The ~~Department~~ Division of Workforce Services shall certify to
33 the Governor, the House Committee on Public Health, Welfare, and Labor, and
34 the Senate Committee on Public Health, Welfare, and Labor when the support
35 services necessary for program recipients to obtain employment or participate
36 in allowable work activities are available.

1 (2) The ~~Department~~ Division of Workforce Services may certify
2 subsets of program recipients, including without limitation recipients in a
3 certain geographical area or employment opportunity district or program
4 recipients with a high school diploma or high school equivalency diploma
5 approved by the ~~Department of Career Education~~ Adult Education Section.

6 (3) Before implementing the twenty-four-month cumulative limit
7 on financial assistance, the ~~Department~~ Division of Workforce Services shall
8 notify program recipients by direct mail or contact and by other means
9 reasonably calculated to reach to current and potential program recipients,
10 including, but not limited to, the posting of notices in county offices.

11 (c) The ~~Department~~ Division of Workforce Services shall exempt or
12 temporarily defer within thirty (30) calendar days the following persons from
13 the twenty-four-month cumulative limit on financial assistance:

14 (1) An individual, as determined by a ~~Department~~ Division of
15 Workforce Services case manager, who cooperated and participated in
16 activities, but was unable to obtain employment because of circumstances or
17 barriers beyond his or her control;

18 (2) Child-only cases;

19 (3) An individual unable to obtain employment because of the
20 lack of support services necessary to overcome barriers to employment;

21 (4) A parent or caregiver over sixty (60) years of age;

22 (5) A parent or caregiver who is caring for a disabled child
23 relative or disabled adult relative, based upon criteria set forth in
24 ~~Department~~ Division of Workforce Services regulations;

25 (6) A disabled parent or caregiver, based upon criteria set
26 forth in ~~Department~~ Division of Workforce Services regulations;

27 (7) A parent less than eighteen (18) years of age who resides in
28 the home of a parent or in an approved adult-supervised setting and who
29 participates in full-time education or training;

30 (8) An individual, who as determined by a ~~Department~~ Division of
31 Workforce Services case manager, is unable to obtain employment due directly
32 to the effects of domestic violence. All case manager determinations made
33 under this subdivision (c)(8) shall be reviewed by a supervisor within five
34 (5) days of the determination;

35 (9) Other individuals as determined by the ~~Department~~ Division
36 of Workforce Services, including, but not limited to, a child when necessary

1 to protect the child from the risk of neglect, as defined by § 12-18-103(14);
2 and

3 (10) Individuals participating in education and training
4 activities who have reached the end of their twenty-four-month cumulative
5 limit on financial assistance, have complied with all transitional employment
6 assistance regulations, are making satisfactory academic progress as
7 determined by the academic institution or training program in which the
8 individual is currently enrolled, and are expected to complete the
9 requirements for the education or training program within a reasonable period
10 of time as defined in regulations issued by the ~~Department~~ Division of
11 Workforce Services.

12 (d)(1) No months shall be counted toward a person's twenty-four-month
13 cumulative limit on financial assistance while he or she is receiving a
14 deferral or exemption.

15 (2) There shall be no limit on the length or the number of
16 deferrals or exemptions granted each person as long as the person meets any
17 of the criteria outlined in subsection (c) of this section.

18 (3) The ~~Department~~ Division of Workforce Services shall
19 periodically review each case to determine whether the person still meets any
20 of the criteria outlined in subsection (c) of this section.

21 (4)(A) The ~~Department~~ Division of Workforce Services shall carry
22 out an enhanced review of all cases six (6) months before the expiration of
23 the time limit.

24 (B) The review shall assess the barriers that remain to
25 the adult or adults in the case obtaining employment, what enhanced services
26 can be provided to enable him or her to obtain employment, and whether the
27 case should be given a six-month extension or be exempted from the time
28 limit.

29 (C) The ~~Department~~ Division of Workforce Services shall
30 make every reasonable effort to deliver the available services identified in
31 subdivision (d)(4)(B) of this section.

32 (D) The ~~Department~~ Division of Workforce Services shall
33 grant an extension at the time for review if the client meets one (1) of the
34 grounds for extension.

35 (E) The ~~Department~~ Division of Workforce Services shall
36 carry out a further review at the end of the extension period.

1 (e)(1) A recipient who was eligible for Medicaid and loses his or her
2 financial assistance due to earnings and whose income remains below one
3 hundred eighty-five percent (185%) of the federal poverty level shall remain
4 eligible for transitional Medicaid without reapplication during the
5 immediately succeeding twelve-month period if private medical insurance is
6 unavailable from the employer.

7 (2) A recipient who loses his or her financial assistance due to
8 earnings and who is employed shall be eligible for:

9 (A) Childcare assistance at no cost and without
10 reapplication for a cumulative period of twelve (12) months; and

11 (B) Twenty-four (24) additional months of childcare
12 assistance provided on a sliding fee scale or other cost-sharing arrangement
13 as determined by the ~~Department~~ Division of Workforce Services.

14 (3) The ~~Department~~ Division of Workforce Services may reduce the
15 period of transitional child care to a total of twenty-four (24) months for
16 recipients who lose assistance at a specified date after the ~~Department~~
17 Division of Workforce Services' decision to limit the assistance if the
18 ~~Department~~ Division of Workforce Services certifies to the Governor and the
19 Chief Fiscal Officer of the State that the reduction is necessary to avoid
20 overspending the biennial budget for child care.

21 (4) The transitional childcare assistance available to former
22 recipients shall not exceed the cumulative number of months provided under
23 subdivisions (e)(2) and (3) of this section, regardless of whether the former
24 recipient reenters the Transitional Employment Assistance Program.

25 (f)(1) The ~~Department~~ Division of Workforce Services shall deny
26 Medicaid, childcare, and transportation assistance during the twelve-month
27 period for any month in which the recipient's family does not include a
28 dependent child.

29 (2) The ~~Department~~ Division of Workforce Services shall notify
30 the recipient of transitional Medicaid, childcare, and transportation
31 assistance when the recipient is notified of the termination of cash
32 assistance. The notice shall include a description of the circumstances in
33 which the transitional Medicaid and childcare assistance may be terminated.

34 (g)(1) In order to assist current and former program recipients in
35 continuing training and upgrading skills, transitional education or training
36 may be provided to a recipient for up to one (1) year after the recipient is

1 no longer eligible to participate in the program due to employment earnings.

2 (2) Education or training resources available in the community
3 at no additional cost to the ~~Department~~ Division of Workforce Services shall
4 be used whenever possible.

5 (3) Transitional education or training shall be employment-
6 related and may include education or training to improve a recipient's job
7 skills in the recipient's existing area of employment or may include
8 education or training to prepare a recipient for employment in another
9 occupation.

10 (4) The ~~Department~~ Division of Workforce Services may enter into
11 an agreement with an employer to share the costs relating to upgrading the
12 skills of recipients hired by the employer.

13 (h) Other extended support services may be available to recipients no
14 longer eligible for financial assistance under transitional employment
15 assistance.

16 (i)(1) By August 1, 2001, the ~~Department~~ Division of Workforce
17 Services shall develop a plan, subject to review and recommendation by the
18 Arkansas Workforce Development Board, to monitor and protect the safety and
19 well-being of the children within a family whose temporary assistance is
20 terminated for any reason other than the family's successful transition to
21 economic self-sufficiency.

22 (2)(A) Actions required by the plan shall include at least one
23 (1) home visit with the parents and children.

24 (B) Every reasonable effort shall be made to make contact
25 with all families, including visits during evenings and on weekends.

26 (C) The first home visit shall occur within six (6) months
27 after the termination of cash assistance.

28 (D) The purposes of the home visits shall include checking
29 on the well-being of children in those families and determining whether the
30 families need available services.

31 (3) The ~~Department~~ Division of Workforce Services may contract
32 with other state agencies, private companies, local government agencies, or
33 community organizations for the conducting of these visits.

34 (4) The board shall submit a report to the Governor and the
35 Chair of the House Committee on Public Health, Welfare, and Labor and the
36 Chair of the Senate Committee on Public Health, Welfare, and Labor that

1 report on the outcomes of the home visits and provide separate information
2 for families who left transitional assistance due to noncompliance and time
3 limits.

4 (j) As part of the home visits, families shall be informed about the
5 availability of Medicaid and ARKids First, food stamps, child care, housing
6 assistance, any other supportive services offered by the ~~Department~~ Division
7 of Workforce Services or the Department of Health designed to help meet the
8 basic needs and well-being of children, federal and state earned income tax
9 credits, individual development accounts, employment counseling services, and
10 education and training opportunities designed to increase the future earnings
11 and employment prospects of clients.

12

13 SECTION 531. Arkansas Code § 20-76-410(b)-(f), concerning transitional
14 employment assistance and administrative sanctions, are amended to read as
15 follows:

16 (b) The ~~Department~~ Division of Workforce Services may define by rule
17 additional situations that require sanction, establish additional sanctions,
18 and provide for administrative disqualification.

19 (c)(1) If a parent fails to comply with the Transitional Employment
20 Assistance Program requirements, financial assistance for the child or
21 children may be continued under subdivisions (a)(1)-(5) of this section, and
22 the ~~department~~ division shall suspend the family's assistance for one (1)
23 month.

24 (2)(A) During the thirty (30) days after suspension of benefits,
25 the ~~department~~ division shall make strong efforts to arrange a face-to-face
26 meeting with the parent, including a home visit to the family if necessary.

27 (B) In the face-to-face meeting, the ~~department~~ division
28 shall explain:

29 (i) The reason that the family has been found to be
30 noncompliant;

31 (ii) The penalty that will be imposed; and

32 (iii) The opportunity to correct that noncompliance
33 and avoid the penalty.

34 (C) The ~~department~~ division shall also seek to determine
35 the well-being of the child or children and whether additional services or
36 actions are required to protect the well-being of the child or children.

1 (D) If the parent comes into compliance within fifteen
2 (15) business days after the face-to-face meeting and maintains compliance
3 for two (2) weeks, the suspended benefits shall be paid to the family.

4 (3) If the parent fails to come into compliance during the
5 period of suspended benefits, the family's financial assistance may be
6 reduced by up to twenty-five percent (25%) for the next three (3) months if
7 noncompliance continues.

8 (4) If the parent's noncompliance continues after the fourth
9 month, the ~~department~~ division shall suspend the family's financial
10 assistance for two (2) months.

11 (5)(A) During the thirty (30) days after suspension of benefits,
12 the ~~department~~ division shall make strong efforts to arrange a face-to-face
13 meeting with the parent, including a home visit to the family if necessary.

14 (B) In the face-to-face meeting, the ~~department~~ division
15 shall explain:

16 (i) The reason that the family has been found to be
17 noncompliant;

18 (ii) The penalty that will be imposed; and

19 (iii) The opportunity to correct that noncompliance
20 and avoid the penalty.

21 (C) The ~~department~~ division shall also seek to determine
22 the well-being of the child or children and whether additional services or
23 actions are required to protect the well-being of the child or children.

24 (D) If the parent comes into compliance within fifteen
25 (15) business days and maintains compliance for two (2) weeks, the suspended
26 benefits shall be paid to the parent.

27 (E) If the parent fails to come into compliance during the
28 second period of suspended benefits, the family's financial assistance may be
29 reduced by up to fifty percent (50%) for the next three (3) months, if
30 noncompliance continues.

31 (F) Months during which cash assistance benefits are
32 suspended shall not count toward the family's twenty-four-month limit on
33 receiving Transitional Employment Assistance Program assistance.

34 (G) The Transitional Employment Assistance Program cash
35 assistance case shall be closed if noncompliance continues after the end of
36 the period under this subdivision (c)(5).

1 (6) The ~~department~~ division shall arrange a home visit with the
2 family during the last month of the sanction to determine the well-being of
3 the child or children and to determine whether additional services are
4 required to protect the well-being of the child or children.

5 (7) Medicaid and food stamp benefits shall be continued without
6 need for reapplication if the family is being sanctioned and for as long as
7 the family remains eligible under the requirements of those programs.

8 (8) ~~Department~~ Division staff may contract with other state
9 agencies, local coalitions, or appropriate community organizations to carry
10 out the strong efforts to communicate with families facing sanction and to
11 conduct the face-to-face meetings and home visits specified in this section.

12 (d) Beginning after July 27, 2011, the ~~department~~ division shall
13 include in the comprehensive annual program report information on the
14 families sanctioned and the outcomes of the home visits to the Governor and
15 the House Committee on Public Health, Welfare, and Labor and the Senate
16 Committee on Public Health, Welfare, and Labor.

17 (e) When appropriate, protective payees may be designated by the
18 ~~department~~ division and may include:

19 (1) A relative or other individual who is interested in or
20 concerned with the welfare of the child or children and agrees in writing to
21 utilize the assistance in the best interests of the child or children;

22 (2) A member of the community affiliated with a religious,
23 community, neighborhood, or charitable organization who agrees in writing to
24 utilize the assistance in the best interests of the child or children; or

25 (3) A volunteer or member of an organization who agrees in
26 writing to utilize the assistance in the best interests of the child or
27 children.

28 (f)(1) If it is in the best interest of the child or children, as
29 determined by the ~~department~~ division, for the staff member of a private
30 agency, a public agency, the ~~department~~ division, or any other appropriate
31 organization to serve as a protective payee, the designation may be made.

32 (2) However, a protective payee shall not be any individual
33 involved in determining eligibility for assistance for the family, staff
34 handling any fiscal pressures related to the issuance of assistance, or
35 landlords, grocers, or vendors of goods, services, or items dealing directly
36 with the recipient.

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SECTION 532. Arkansas Code § 20-76-437 is amended to read as follows:

20-76-437. Reporting – Transitional employment assistance.

The Department of Human Services, the ~~Department~~ Division of Workforce Services, the Department of Health, the ~~Department of Education~~ Division of Elementary and Secondary Education, the ~~Department~~ Division of Higher Education, the ~~Department of Career Education~~ Adult Education Section, the Arkansas Development Finance Authority, the Arkansas Economic Development Council, and the Arkansas Department of Transportation shall report periodically to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor regarding the provision of services to Transitional Employment Assistance Program recipients.

SECTION 533. Arkansas Code § 20-76-438(b)(1)(A) and (B), concerning the purpose of public assistance, are amended to read as follows:

(A) Currently there are inefficiencies and duplication of effort on the part of the ~~Department~~ Division of Workforce Services and the Department of Human Services in the administration of the Transitional Employment Assistance Program; and

(B) A different division of responsibility for administration of the Transitional Employment Assistance Program by the ~~Department~~ Division of Workforce Services and the Department of Human Services may result in the more efficient and effective administration of the Transitional Employment Assistance Program.

SECTION 534. The introductory language of Arkansas Code § 20-76-438(b)(2), concerning the purpose of public assistance, are amended to read as follows:

(2) Therefore, it is in the public interest that the General Assembly authorize the ~~Department~~ Division of Workforce Services to:

SECTION 535. Arkansas Code § 20-76-443(a)(1) and (2), concerning the education and training of Transitional Employment Assistance Program recipients, are amended to read as follows:

(a)(1) The Department of Human Services and the ~~Department~~ Division of

1 Workforce Services shall permit Transitional Employment Assistance Program
2 recipients to obtain the education and training they need to obtain jobs that
3 pay wages allowing them to be economically self-sufficient.

4 (2) Program recipients who are assessed as having basic
5 education deficiencies shall be allowed to combine educational activities
6 leading to a high school diploma or high school equivalency diploma approved
7 by the ~~Department of Career Education~~ Adult Education Section and employment
8 and work experience. Participants may be required to engage in internships,
9 work experience, or employment. Work requirements shall not exceed fifteen
10 (15) hours per week unless the Department of Human Services certifies that
11 allowing education to count toward Transitional Employment Assistance Program
12 recipients' required work activities would affect the state's ability to meet
13 federal work participation rates. To the extent possible, educational
14 activities shall take place in a work context.

15
16 SECTION 536. Arkansas Code § 20-76-443(d)(2), concerning education and
17 training for Transitional Employment Assistance Program recipients, is
18 amended to read as follows:

19 (2) The ~~Department~~ Division of Workforce Services and the
20 Arkansas Early Childhood Commission jointly shall promulgate rules to develop
21 an evening childcare program with extended hours under subdivision (d)(1) of
22 this section.

23
24 SECTION 537. Arkansas Code § 20-76-444(a)(2)(A), concerning the
25 creation and duties of the Arkansas Work Pays Program, is amended to read as
26 follows:

27 (2)(A) The Arkansas Work Pays Program shall be administered by
28 the ~~Department~~ Division of Workforce Services.

29
30 SECTION 538. Arkansas Code § 20-76-444(c)(2), concerning the creation
31 and duties of the Arkansas Work Pays Program, is amended to read as follows:

32 (2) The ~~department~~ division may set payment levels for families
33 earning above the federal poverty level by rule to allow for a gradual
34 reduction in payments as earnings rise toward one hundred fifty percent
35 (150%) of the federal poverty level.

36

1 SECTION 539. The introductory language of Arkansas Code § 20-76-
2 444(f), concerning the creation and duties of the Arkansas Work Pays Program,
3 is amended to read as follows:

4 (f) The ~~Department~~ Division of Workforce Services shall administer a
5 work incentive program that includes cash bonuses and other financial
6 incentives to encourage:

7
8 SECTION 540. Arkansas Code § 20-76-444(g)(1), concerning the creation
9 and duties of the Arkansas Work Pays Program, is amended to read as follows:

10 (g)(1) The ~~Department~~ Division of Workforce Services shall work with
11 local workforce offices to develop and administer services to Arkansas Work
12 Pays Program participants designed to help them move into higher-paying jobs
13 available in their regions.

14
15 SECTION 541. The introductory language of Arkansas Code § 20-76-
16 444(g)(3), concerning the creation and duties of the Arkansas Work Pays
17 Program, is amended to read as follows:

18 (3) The ~~Department~~ Division of Workforce Services may make these
19 services available to low-income workers who are not participating in the
20 Arkansas Work Pays Program.

21
22 SECTION 542. Arkansas Code § 20-76-444(h)-(j), concerning the creation
23 and duties of the Arkansas Work Pays Program, are amended to read as follows:

24 (h) The ~~Department~~ Division of Workforce Services may contract with
25 the Department of Human Services for administrative services related to
26 eligibility and payments.

27 (i) The ~~Department~~ Division of Workforce Services shall make
28 arrangements with the Department of Human Services to facilitate
29 participants' enrollment in the Arkansas Work Pays Program after they leave
30 the Transitional Employment Assistance Program.

31 (j)(1) The ~~Department~~ Division of Workforce Services shall promulgate
32 rules establishing the Arkansas Work Pays Program.

33 (2) The rules shall be subject to review and recommendation by
34 the board.

35
36 SECTION 543. Arkansas Code § 20-76-445(b)(1)(A), concerning the Career

1 Pathways Initiative, is amended to read as follows:

2 (b)(1)(A) The ~~Department~~ Division of Workforce Services, the
3 Department of Higher Education, and the Arkansas Workforce Development Board
4 shall work jointly to develop a plan for the Career Pathways Initiative.

5

6 SECTION 544. The introductory language of Arkansas Code § 20-76-
7 445(d), concerning the Career Pathways Initiative, is amended to read as
8 follows:

9 (d) Under the initiative, the ~~Department~~ Division of Higher Education
10 shall contract to provide education and training that will result in job
11 training certificates or higher education degrees for Transitional Employment
12 Assistance Program participants and other low-income adults with:

13

14 SECTION 545. Arkansas Code § 20-76-445(e)(2), concerning the Career
15 Pathways Initiative, is amended to read as follows:

16 (2) Applications shall be made to the ~~Department~~ Division of
17 Higher Education.

18

19 SECTION 546. Arkansas Code § 20-76-445(f), concerning the Career
20 Pathways Initiative, is amended to read as follows:

21 (f) The ~~Department~~ Division of Higher Education shall determine which
22 two-year college proposals are funded under the initiative.

23

24 SECTION 547. Arkansas Code § 20-76-446(a)(2), concerning the creation
25 of the Community Investment Initiative, is amended to read as follows:

26 (2) The ~~Department~~ Division of Workforce Services shall develop
27 the initiative.

28

29 SECTION 548. Arkansas Code § 20-76-446(b), concerning the creation of
30 the Community Investment Initiative, is amended to read as follows:

31 (b) The ~~department~~ division shall contract with private or community
32 organizations, including faith-based organizations, to offer services and
33 support to parents, children, and youth in their communities.

34

35 SECTION 549. Arkansas Code § 20-76-446(d)(1), concerning the creation
36 of the Community Investment Initiative, is amended to read as follows:

1 (d)(1) The ~~department~~ division shall authorize contracts with state
2 agencies or community organizations to provide training and capacity building
3 services to organizations eligible to apply for initiative funds.
4

5 SECTION 550. Arkansas Code § 20-76-702(4)(B), concerning definitions
6 for the Drug Screening and Testing Act of 2015, is amended to read as
7 follows:

8 (B) The Director of the ~~Department~~ Division of Workforce
9 Services may add under the definition of subdivision (4)(A) of this section
10 additional drugs by rule;
11

12 SECTION 551. Arkansas Code § 20-76-702(6), concerning definitions for
13 the Drug Screening and Testing Act of 2015, is amended to read as follows:

14 (6) "Drug testing agency" means an entity that has the required
15 credentials as established by the ~~Department~~ Division of Workforce Services
16 to administer drug tests using a person's urine, blood, or DNA that will
17 detect and validate the presence of drugs in a person's body;
18

19 SECTION 552. Arkansas Code § 20-76-703(a)(1), concerning the
20 administration of drug screening and testing program under the Temporary
21 Assistance for Needy Families Program, is amended to read as follows:

22 (a)(1) Subject to state appropriation, the ~~Department~~ Division of
23 Workforce Services, in coordination with the Department of Human Services,
24 shall establish and administer a drug screening and testing program of
25 suspicion-based drug screening and testing for each applicant who is
26 otherwise eligible for the Temporary Assistance for Needy Families Program, §
27 20-76-101 et seq., or its successor program and for each recipient of the
28 Temporary Assistance for Needy Families Program, § 20-76-101 et seq., or its
29 successor program.
30

31 SECTION 553. The introductory language of Arkansas Code § 20-76-
32 704(a), concerning the powers and duties of the Department of Workforce
33 Services in the administration of a drug screening and testing program under
34 the Temporary Assistance for Needy Families Program, is amended to read as
35 follows:

36 (a) The ~~Department~~ Division of Workforce Services, in coordination

1 with the Department of Human Services, shall:

2
3 SECTION 554. Arkansas Code § 20-76-704(a)(2), concerning the powers
4 and duties of the Department of Workforce Services in the administration of a
5 drug screening and testing program under the Temporary Assistance for Needy
6 Families Program, is amended to read as follows:

7 (2) Develop appropriate screening techniques and processes to
8 establish reasonable cause that an applicant or recipient is using a drug and
9 to establish the necessary criteria to permit the ~~Department~~ Division of
10 Workforce Services, in coordination with the Department of Human Services, to
11 require the applicant or recipient to undergo no less than a five-panel drug
12 test;

13
14 SECTION 555. The introductory language of Arkansas Code § 20-76-
15 704(b), concerning the powers and duties of the Department of Workforce
16 Services in the administration of a drug screening and testing program under
17 the Temporary Assistance for Needy Families Program, is amended to read as
18 follows:

19 (b) Annually, the ~~Department~~ Division of Workforce Services, in
20 coordination with the Department of Human Services, shall submit a report of
21 the past calendar year on or before February 1 to the General Assembly that
22 includes without limitation:

23
24 SECTION 556. Arkansas Code § 20-76-704(b)(8), concerning the powers
25 and duties of the Department of Workforce Services in the administration of a
26 drug screening and testing program under the Temporary Assistance for Needy
27 Families Program, is amended to read as follows:

28 (8) The amount of costs incurred by the ~~department~~ division for
29 the administration of the drug screening and testing program; and

30
31 SECTION 557. Arkansas Code § 20-76-705(1)(B), concerning standards in
32 the drug screening and testing pilot program, is amended to read as follows:

33 (B) If the result of the drug screening tool gives the
34 ~~Department~~ Division of Workforce Services a reasonable suspicion to believe
35 that the applicant or recipient has engaged in the use of drugs, then the
36 applicant or recipient shall be required to take a drug test.

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SECTION 558. Arkansas Code § 20-76-705(2)(A) and (B), concerning standards in the drug screening and testing pilot program, are amended to read as follows:

(A) If an applicant or recipient receives a negative result on a drug test, the cost of administering the drug test shall be paid by the ~~department~~ division;

(B) If an applicant or recipient receives a positive result on a drug test, refuses to enter a treatment plan, and receives a negative result on a drug test upon reapplying for benefits after six (6) months, the cost of administering the first drug test shall be deducted from his or her first program benefits, and the cost of administering the second drug test shall be paid by the ~~department~~ division;

SECTION 559. Arkansas Code § 20-76-705(3)(A), concerning standards in the drug screening and testing pilot program, are amended to read as follows:

(3)(A) A referral process for any applicant or recipient who receives a positive result on a drug test to be referred to an appropriate treatment resource for drug abuse treatment or other resource by the ~~department~~ division for an appropriate treatment period as determined by the ~~department~~ division.

SECTION 560. Arkansas Code § 20-76-705(5)(C), concerning standards in the drug screening and testing pilot program, are amended to read as follows:

(C) If an applicant or recipient who has failed a drug test reapplies for program benefits, the applicant or recipient shall test negative for illegal use of controlled substances in order to receive program benefits, and the ~~department~~ division may provide a referral to an appropriate treatment resource for drug abuse treatment or other resource; and

SECTION 561. Arkansas Code § 20-76-706(a), concerning information regarding drug testing, is amended to read as follows:

(a) All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received by the ~~Department~~ Division of Workforce Services as a part of the drug testing program under this

1 subchapter shall be confidential and not subject to disclosure and may not be
2 used or received in evidence, obtained in discovery, or disclosed in any
3 public or private proceedings.

4
5 SECTION 562. Arkansas Code § 20-76-706(c)(1), concerning information
6 regarding drug testing, is amended to read as follows:

7 (1) The ~~department~~ division or a drug testing agency conducting
8 the drug test from having access to an adult applicant's or adult recipient's
9 drug test information or using the information when consulting with legal
10 counsel in connection with actions brought under or related to this
11 subchapter or when the information is relevant to its defense in a civil or
12 administrative matter; or

13
14 SECTION 563. Arkansas Code § 20-76-708(a), concerning the rulemaking
15 authority of the Director of the Department of Workforce Services, is amended
16 to read as follows:

17 (a) The Director of the ~~Department~~ Division of Workforce Services, in
18 coordination with the Department of Human Services, shall promulgate rules
19 necessary for the implementation of this subchapter.

20
21 SECTION 564. Arkansas Code § 20-77-2002(a)(5)(B)(vi), concerning the
22 administration of the ARKids First Programs, is amended to read as follows:

23 (vi) The ~~Department~~ Division of Workforce Services
24 database.

25
26 SECTION 565. Arkansas Code § 20-79-204 is amended to read as follows:

27 20-79-204. Deputy director.

28 (a) ~~The~~ Arkansas Rehabilitation Services shall be administered, under
29 the general supervision and direction of the ~~appropriate division~~ Division of
30 Workforce Services ~~of the Department of Human Services~~, by a deputy director,
31 appointed in accordance with established personnel standards and on the basis
32 of education, training, experience, and demonstrated ability in the field of
33 rehabilitation.

34 (b) In carrying out his or her duties under this subchapter, the
35 deputy director:

36 (1) Shall, with the approval of the ~~Director~~ Secretary of the

1 Department of ~~Human Services~~ Commerce, prepare regulations for promulgation
2 by the appropriate division of the department governing personnel standards,
3 the protection of records and confidential information, the manner and form
4 of filing applications, eligibility, and investigation and determination
5 thereof, for rehabilitation services, procedures for fair hearings, and such
6 other regulations as he or she finds necessary to carry out the purposes of
7 this subchapter, including the order to be followed in selecting those to
8 whom rehabilitation services are to be provided in situations where service
9 cannot be provided to all who are eligible for service;

10 (2) Shall, with the approval of the ~~director~~ secretary,
11 establish appropriate subordinate administrative units within ~~the~~ Arkansas
12 Rehabilitation Services;

13 (3) Shall recommend to the ~~director~~ secretary for appointment
14 such personnel as he or she deems necessary for the efficient performance of
15 the functions of ~~the~~ Arkansas Rehabilitation Services;

16 (4) Shall prepare and submit to the ~~director~~ secretary and the
17 Governor annual reports of activities and expenditures and, prior to each
18 regular session of the General Assembly, estimates of sums required to carry
19 out this subchapter, as well as estimates of the amounts to be made available
20 for this purpose from all sources;

21 (5) Shall make certification for disbursement, in accordance
22 with regulations, of funds available for carrying out the purposes of this
23 subchapter; and

24 (6) May, with the approval of the ~~director~~ secretary, delegate
25 to any officer or employee of ~~the~~ Arkansas Rehabilitation Services such of
26 his or her powers and duties, except the making of regulations and the making
27 of recommendations for appointment of personnel, as he or she finds necessary
28 to carry out the purposes of this subchapter.

29
30 SECTION 566. Arkansas Code § 20-86-105(a), concerning proposals for
31 contracts with fiduciary organizations by the Department of Workforce
32 Services, is amended to read as follows:

33 (a)(1) The ~~Department~~ Division of Workforce Services shall enter into
34 contracts with one (1) or more fiduciary organizations pursuant to the
35 provisions of this section in such a manner that different regions of the
36 state are served by one (1) or more fiduciary organizations.

1 (2)(A) An organization based in this state which desires to
2 enter into such a contract shall submit a proposal to the ~~department~~ division
3 for the right to be approved as a fiduciary organization.

4 (B) Proposals shall be made upon forms prescribed by the
5 ~~department~~ division and shall contain such information as the ~~department~~
6 division may require.

7
8 SECTION 567. The introductory language of Arkansas Code § 20-86-
9 105(b), concerning proposals for contracts with fiduciary organizations by
10 the Division of Workforce Services, is amended to read as follows:

11 (b) Organizations' proposals shall be evaluated and contracts awarded
12 by the ~~department~~ division on the basis of such items as geographic diversity
13 and an organization's:

14
15 SECTION 568. Arkansas Code § 20-86-106(a)(1), concerning an individual
16 development account, is amended to read as follows:

17 (a)(1) An individual who is a resident of this state may submit an
18 application to open an individual development account to a fiduciary
19 organization approved by the ~~Department~~ Division of Workforce Services
20 pursuant to the provisions of § 20-86-105.

21
22 SECTION 569. Arkansas Code § 20-86-109(d)(1)(B), concerning matching
23 funds contributed to a fiduciary organization, is amended to read as follows:

24 (B) The fiduciary organization shall then notify the
25 ~~Department~~ Division of Workforce Services and request a certification from
26 the ~~Department~~ Division of Workforce Services certifying the amount of the
27 tax credit to which the taxpayer is entitled.

28
29 SECTION 570. Arkansas Code § 20-86-109(g), concerning matching funds
30 contributed to a fiduciary organization, is amended to read as follows:

31 (g) The ~~Department~~ Division of Workforce Services may monitor the use
32 of these funds by fiduciary organizations.

33
34 SECTION 571. The introductory language of Arkansas Code § 20-86-111,
35 concerning reporting requirements of fiduciary organizations, is amended to
36 read as follows:

1 Each fiduciary organization shall provide quarterly to the ~~Department~~
2 Division of Workforce Services the following information:

3
4 SECTION 572. Arkansas Code § 20-86-112 is amended to read as follows:
5 20-86-112. Implementation.

6 The ~~Department~~ Division of Workforce Services shall be responsible for
7 implementation of this subchapter and shall promulgate rules as necessary in
8 accordance with the provisions of this subchapter.

9
10 SECTION 573. Arkansas Code § 20-86-113(a), concerning reports and
11 recommendations of the Department of Workforce Services, is amended to read
12 as follows:

13 (a) The ~~Department~~ Division of Workforce Services shall prepare a
14 written report annually regarding the implementation of this act and shall
15 make recommendations for improving the program.

16
17 SECTION 574. Arkansas Code § 21-5-218 is amended to read as follows:
18 21-5-218. Reimbursement for interpreter services for deaf.

19 Whereas ~~the~~ Arkansas Rehabilitation Services ~~of the Department of~~
20 ~~Career Education~~ currently purchases and sells staff interpreter services for
21 the deaf with four (4) other agencies, the University of Arkansas at
22 Fayetteville, the University of Arkansas at Little Rock, the Arkansas School
23 for the Deaf, and the Administrative Office of the Courts and whereas the
24 need for interpreters is immediate and often for crisis purposes and cannot
25 be planned ahead, the ~~Department of Career Education~~ Division of Workforce
26 Services is authorized to arrange for reimbursement with those agencies,
27 assuring that the amount paid from both agencies will not exceed the maximum
28 for the grades they occupy consistent with the intent of § 19-4-1604, with
29 notification and justification to the ~~Chief Fiscal Officer of the State~~
30 Secretary of the Department of Transformation and Shared Services.

31
32 SECTION 575. Arkansas Code § 23-2-423(d), concerning the procedure for
33 judicial review for orders of the Arkansas Public Service Commission, is
34 amended to read as follows:

35 (d) The Court of Appeals, on review, shall advance commission cases as
36 matters of public interest over all other civil cases except child custody

1 cases, and appeals under the Workers' Compensation Law, § 11-9-101 et seq.,
2 and the ~~Department~~ Division of Workforce Services Law, § 11-10-101 et seq.

3
4 SECTION 576. Arkansas Code § 23-35-201 is amended to read as follows:
5 23-35-201. Credit Union Division – State Credit Union Supervisor –
6 Staff.

7 There is created under the State Securities Department a Credit Union
8 Division which shall be administered by the State Credit Union Supervisor.
9 The Securities Commissioner, with the approval of the Secretary of the
10 Department of Commerce, shall act as State Credit Union Supervisor. The
11 supervisor, with the approval of the Secretary of the Department of Commerce,
12 shall appoint such ~~assistants, secretaries,~~ administrative assistants and
13 examiners as may be necessary to assist in the performance of his or her
14 duties under this chapter.

15
16 SECTION 577. Arkansas Code § 23-37-206 is amended to read as follows:
17 23-37-206. Division of Savings and Loan Associations – Supervisor –
18 Staff.

19 (a) There is created a Division of Savings and Loan Associations of
20 the State Securities Department which shall be administered by the Supervisor
21 of Savings and Loan Associations.

22 (b)(1) The Securities Commissioner, with the approval of the Secretary
23 of the Department of Commerce, shall act as Supervisor of Savings and Loan
24 Associations. He or she may appoint an assistant securities commissioner
25 responsible for financial institutions to act as the Assistant Supervisor of
26 Savings and Loan Associations and perform all duties delegated by the
27 commissioner.

28 (2) The supervisor, with the approval of the Secretary of the
29 Department of Commerce, shall appoint any other assistants, secretaries, and
30 examiners who may be necessary to assist in the performance of his or her
31 duties under this chapter.

32
33 SECTION 578. Arkansas Code § 23-39-512(b)(2)(A), concerning exceptions
34 to the public inspection of the records of the State Securities Department,
35 is amended to read as follows:

36 (A) Generally, records that reflect discussions between or

1 consideration by the commissioner or members of ~~his or her~~ the staff of the
2 State Securities Department or the staff of the Department of Commerce
3 working for the State Securities Department, or both, of any action taken or
4 proposed to be taken by the commissioner or by any members of ~~his or her~~ the
5 staff of the State Securities Department or the staff of the Department of
6 Commerce working for the State Securities Department; and

7
8 SECTION 579. Arkansas Code § 23-39-512(b)(3)(A) and (B), concerning
9 exceptions to the public inspection of the records of the State Securities
10 Department, are amended to read as follows:

11 (A) Information concerning all employees of the State
12 Securities Department or the Department of Commerce working for the State
13 Securities Department and information concerning persons subject to
14 regulation by the department; and

15 (B) Personal information about employees of mortgage
16 brokers, mortgage bankers, mortgage servicers, or loan officers reported to
17 the commissioner under the ~~department's~~ State Securities Department rules
18 concerning registration of those persons;

19
20 SECTION 580. Arkansas Code § 23-42-201 is amended to read as follows:

21 23-42-201. Administration by Securities Commissioner – Conflicts of
22 interest.

23 (a)(1) This chapter shall be administered by the Securities
24 Commissioner, who shall be appointed by the Governor and who shall serve at
25 the pleasure of the Governor.

26 (2) The commissioner shall report to the Secretary of the
27 Department of Commerce.

28 (b)(1) There is created within the Department of commerce the State
29 Securities Department.

30 (2) The State Securities Department shall have all the powers
31 and duties assigned pursuant to Acts 1983, No. 691, and all subsequent
32 delegations of authority.

33 (b)(c) No person shall serve in the State Securities Department or in
34 the Department of Commerce working for the State Securities Department in any
35 capacity who engages in any activities regulated under the provisions of this
36 chapter.

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SECTION 581. Arkansas Code § 23-42-203 is amended to read as follows:

23-42-203. Confidentiality of information or proceedings generally.

(a) It is unlawful for the Securities Commissioner or any of ~~his or~~ her the officers or employees of the State Securities Department or officers or employees of the Department of Commerce working for the State Securities Department to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public.

(b) Neither the commissioner nor any of ~~his or her~~ the officers or employees of the State Securities Department or officers or employees of the Department of Commerce working for the State Securities Department shall disclose the information except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter or in any judicial proceedings when the information is not privileged.

(c) No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of his or her officers or employees.

(d) Nothing herein shall prevent the commissioner or any officers or employees of the State Securities Department or officers or employees of the Department of Commerce working for the State Securities Department from sharing with state or federal law enforcement authorities, other state or federal regulatory authorities, or self-regulatory organizations authorized by law any information which they may have or obtain in aid of the enforcement of this chapter or any other securities act or the criminal provisions of any laws.

(e) The commissioner, in his or her discretion, shall determine when an administrative proceeding shall be public.

SECTION 582. Arkansas Code § 23-42-207(b)(3), concerning exceptions to the public inspection of records filed with the Securities Commissioner, is amended to read as follows:

(3) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, including those concerning ~~all~~ employees of the State Securities Department or employees of the Department of Commerce working for the State Securities

1 Department and those concerning persons subject to regulation by employees of
2 broker-dealers reported to the commissioner pursuant to the ~~department's~~
3 State Securities Department's rules concerning registration of broker-dealers
4 and agents;

5
6 SECTION 583. Arkansas Code § 23-46-201 is amended to read as follows:

7 23-46-201. Creation of State Bank Department.

8 There is created and established, at the seat of government of this
9 state, a department to be known as the State Bank Department. The State Bank
10 Department shall be a division of the Department of Commerce.

11
12 SECTION 584. Arkansas Code § 23-46-202 is repealed.

13 ~~23-46-202. Offices.~~

14 ~~(a) The State Bank Department may own, acquire, construct,~~
15 ~~reconstruct, extend, equip, improve, maintain, operate, lease, contract~~
16 ~~concerning, or otherwise deal in and with any lands, improvements, buildings,~~
17 ~~furniture, furnishings, machinery, and personal property of any and every~~
18 ~~nature whatever, that can be used by the department for suitable offices for~~
19 ~~the business of the department, with the necessary conveniences for the~~
20 ~~transaction of business and the safekeeping of the records of the department.~~

21 ~~(b) The State Bank Department is authorized and empowered to obtain~~
22 ~~the necessary funds to accomplish the purposes stated in subsection (a) of~~
23 ~~this section from any source or sources necessary, including without~~
24 ~~limitation contracting with the Building Authority Division of the Department~~
25 ~~of Finance and Administration or the Arkansas Development Finance Authority~~
26 ~~to provide for the issuance of bonds under the State Agencies Facilities~~
27 ~~Acquisition Act of 1991, § 22-3-1401 et seq., or the Arkansas Development~~
28 ~~Finance Authority Act, § 15-5-101 et seq., § 15-5-201 et seq., and § 15-5-301~~
29 ~~et seq.~~

30 ~~(c)(1) Bonds and interest on the bonds issued under this section shall~~
31 ~~be payable solely from and secured by a pledge of the fees and revenues~~
32 ~~deposited into an account designated as the State Bank Department Building~~
33 ~~Fund in accordance with § 23-46-209(a).~~

34 ~~(2) The pledged fees and revenues are specifically declared to~~
35 ~~be cash funds, restricted in their use, and dedicated solely for the purposes~~
36 ~~set forth in this subchapter.~~

1 ~~(3) The Arkansas Development Finance Authority is authorized and~~
2 ~~empowered to make a pledge of the fees and revenues in the resolution~~
3 ~~authorizing the issuance of the bonds under this section.~~
4

5 SECTION 585. Arkansas Code § 23-46-204 is amended to read as follows:

6 23-46-204. Bank Commissioner – Appointment and removal.

7 (a) The Governor, by and with the advice and consent of the Senate,
8 shall appoint a Bank Commissioner who shall:

9 (1) Be a resident of this state;

10 (2) Be at least thirty (30) years of age; and

11 (3) Have not less than five (5) years' experience either in
12 practical banking or in the bank department of a state.

13 (b) The commissioner shall be the head of the State Bank Department
14 and shall hold his or her office for the term of four (4) years beginning
15 from the date of actual appointment by the Governor and expiring four (4)
16 years from that date and until a successor is appointed.

17 (c) The commissioner may be removed by the Governor from office for
18 neglect of duty, malfeasance, misfeasance, extortion or corruption in office,
19 incompetency, or mental or physical disability to such an extreme as to
20 render the commissioner unable or unfit for the discharge of his or her
21 duties, or for any offense involving moral turpitude while in office
22 committed under color of or connected with such an office.

23 (d) In the event there shall be an inability to serve in the office
24 caused by death, suspension, removal, disability, disqualification, or
25 resignation of the commissioner, a deputy commissioner previously designated
26 by the commissioner shall exercise the powers and perform the duties of the
27 commissioner until a successor is appointed by the Governor, with the advice
28 and consent of the Senate, who shall serve for the remainder of the unexpired
29 term fixed by law.

30 (e) The commissioner shall report to the Secretary of the Department
31 of Commerce.
32

33 SECTION 586. Arkansas Code § 23-46-205(d)(10), concerning the powers
34 and duties of the Bank Commissioner, is amended to read as follows:

35 (10)(A) Perform preemployment state criminal background checks
36 through the ~~Department~~ Division of Arkansas State Police and preemployment

1 federal criminal background checks through the Federal Bureau of
2 Investigation on all applicants selected for employment as examiners with the
3 State Bank Department.

4 (B) The federal background check shall include taking
5 fingerprints of the applicant.

6 (C) The applicant shall sign a release authorizing the
7 ~~Department~~ Division of Arkansas State Police and the Federal Bureau of
8 Investigation to disclose criminal history information about the applicant to
9 the State Bank Department.

10 (D) The commissioner shall treat the information as
11 confidential and shall disclose the information only to the applicant; and
12

13 SECTION 587. Arkansas Code § 23-46-206 is amended to read as follows:
14 23-46-206. Employment and duties of staff generally.

15 (a)(1) The Bank Commissioner, in consultation with the Secretary of
16 the Department of Commerce, shall employ from time to time the assistants,
17 examiners, clerks, stenographers, counsel, and other personnel as he or she
18 may find necessary to properly and efficiently discharge the duties of his or
19 her office.

20 (2) The commissioner shall be authorized to set minimum
21 qualifications for these persons and to fix their levels of compensation
22 within the limitations of the numbers of employees and the appropriations for
23 their salaries as provided from time to time by acts of the General Assembly,
24 provided he or she shall incur no expense until an appropriation shall have
25 been made therefor nor in excess of the revenues of the State Bank
26 Department.

27 (b) Counsel employed by the commissioner shall advise the commissioner
28 in all legal matters affecting the ~~department~~ State Bank Department.

29 (c) Notwithstanding any other provisions of state law, and in order to
30 maintain the confidentiality of information and the security of ~~department~~
31 State Bank Department personnel in the performance of their duties, the
32 commissioner shall be authorized to establish travel reimbursement guidelines
33 for payment of expenses of ~~department~~ State Bank Department personnel
34 incurred in the performance of their duties.

35 (d) If the commissioner is not himself or herself at any time
36 available for the transaction of any specific matter committed by law to his

1 or her authority or discretion, any one of the deputy commissioners, or any
2 other staff member so designated by the commissioner in writing, may transact
3 such matter in the name and stead of the commissioner.

4 (e)(1) The commissioner, each member of the State Banking Board, the
5 deputy commissioners, chief examiners, counsel, each examiner, each
6 accountant, each attorney, and each other officer, person, or employee, or
7 both, of or for the ~~department~~ State Bank Department shall not be personally
8 liable for damages occasioned by his or her official acts or omissions,
9 except when the acts or omissions are corrupt and malicious.

10 (2) The Attorney General shall defend any action brought against
11 any of the above-mentioned persons by reason of his or her official acts or
12 omissions, regardless of whether at the time of institution of the action the
13 defendant has terminated his or her service with the ~~department~~ State Bank
14 Department.

15
16 SECTION 588. Arkansas Code § 23-46-207(a)(1), concerning prohibited
17 interests in financial institutions, is amended to read as follows:

18 (a)(1) No employee or officer of the State Bank Department, or
19 employee or officer of the Department of Commerce working within the State
20 Bank Department, who participates in the examination of a financial
21 institution, or who may be called upon to make an official decision or
22 determination affecting the operation of a financial institution, shall be an
23 officer, director, attorney, owner, or holder of stock in any state bank,
24 registered out-of-state bank, or bank holding company which controls a state
25 bank or a registered out-of-state bank, or receive, directly or indirectly,
26 any payment or gratuity from any such organizations.

27
28 SECTION 589. Arkansas Code § 23-46-208 is repealed.

29 ~~23-46-208. Employee bonds.~~

30 ~~(a) All employees shall be required to furnish bonds in such amounts~~
31 ~~as the Bank Commissioner shall deem sufficient to cover the liabilities of~~
32 ~~their respective positions, which bonds may be made by any guaranty company~~
33 ~~authorized to do business in this state.~~

34 ~~(b)(1) The fees paid by any officer or employee of the State Bank~~
35 ~~Department to any guaranty or bonding company for a fidelity bond shall be~~
36 ~~considered and charged as expenses of the department.~~

1 ~~(2) However, the expense of any fidelity bond written on a~~
2 ~~special deputy commissioner appointed as special liquidating agent for an~~
3 ~~insolvent state bank or subsidiary trust company shall be paid out of the~~
4 ~~assets of the insolvent state bank or subsidiary trust company.~~

5 ~~(c) No expense shall be incurred until an appropriation shall be made~~
6 ~~for such a purpose, and in no case shall any liability be created for the~~
7 ~~state in excess of the appropriation therefor.~~

8
9 SECTION 590. Arkansas Code § 23-46-209 is amended to read as follows:

10 23-46-209. Records and financial reports – Disposition of funds.

11 ~~(a)(1)~~ The Bank Commissioner shall keep a true and perfect record of
12 all of the business of the State Bank Department and shall make monthly
13 reports to the Auditor of State of all fees he or she collects.

14 ~~(2)(A) From the fees or other revenues collected, the~~
15 ~~commissioner:~~

16 ~~(i) Shall deposit directly into the State Bank~~
17 ~~Department Building Fund the amount due, if any, for the annual rental under~~
18 ~~any lease or annual principal and interest payments under any bonds related~~
19 ~~to the acquisition of any properties under § 23-46-202; and~~

20 ~~(ii) May deposit directly into the State Bank~~
21 ~~Department Building Fund an additional annual amount not to exceed ten~~
22 ~~percent (10%) of the original principal amount of any bonds related to the~~
23 ~~acquisition of any properties under § 23-46-202.~~

24 ~~(B) The commissioner shall make the payments under this~~
25 ~~subdivision (a)(2) from the moneys received by the department prior to the~~
26 ~~payment of any of the moneys into the State Treasury.~~

27 ~~(C) Upon the discharge of all bonds and leases authorized~~
28 ~~by § 23-46-202, the commissioner shall deposit into the State Bank Department~~
29 ~~Building Fund an amount deemed necessary by the commissioner for the~~
30 ~~operation and maintenance of the department's properties and the~~
31 ~~establishment and maintenance of appropriate reserves for the repair and~~
32 ~~replacement of the properties acquired under § 23-46-202.~~

33 ~~(D) All fees collected by the commissioner required for~~
34 ~~the payments under this subdivision (a)(2) are specifically declared to be~~
35 ~~cash funds and may be collected and deposited into banks and depositories~~
36 ~~selected by the commissioner.~~

1 ~~(3) The commissioner shall promptly pay to the Treasurer of~~
2 ~~State all fees not necessary for the payments required by subdivision (a)(2)~~
3 ~~of this section, taking duplicate receipts therefor, one (1) of which shall~~
4 ~~be filed with the Auditor of State.~~

5 (b) All fees and other revenues received by the department ~~not~~
6 ~~necessary for the payments required by subdivision (a)(2) of this section~~
7 shall be deposited into the State Treasury as special revenues and credited
8 to the Bank Department Fund to be used solely for the payment of the expenses
9 of the department pursuant to the appropriations therefor.

10 (c) Upon proper voucher from the commissioner, the Auditor of State
11 shall issue the Auditor of State's warrant on the Treasurer of State in
12 payment of all salaries and other expenses incurred in the administration of
13 the Arkansas Banking Code of 1997.

14
15 SECTION 591. Arkansas Code § 23-46-210 is amended to read as follows:
16 23-46-210. Annual and biennial reports of Bank Commissioner.

17 (a) The Bank Commissioner shall make an annual report to the ~~Governor~~
18 Secretary of the Department of Commerce of the work and the business of the
19 State Bank Department, which shall embrace a statement of all receipts and
20 expenditures and the name, officers, directors, domicile, capital, surplus,
21 net profits, and deposits of each state bank, in the state, and such other
22 information as the commissioner deems advisable.

23 (b) ~~He or she~~ The commissioner shall also, biennially, make a detailed
24 estimate of the expenses of the ~~department~~ State Bank Department for the two
25 (2) succeeding fiscal years.

26
27 SECTION 592. Arkansas Code § 23-46-303 is amended to read as follows:
28 23-46-303. Study of banking statutes.

29 The State Banking Board is authorized, at such times as it deems
30 appropriate, to request a review or study of state banking law and to
31 recommend any changes that it may deem appropriate to the ~~Governor~~ Secretary
32 of the Department of Commerce.

33
34 SECTION 593. Arkansas Code § 23-55-607(b)(2)(A), concerning
35 confidentiality under the Uniform Money Services Act, is amended to read as
36 follows:

1 (A) Records that reflect discussions between or
2 consideration by the commissioner or members of ~~his or her staff~~ the staff of
3 the State Securities Department or the staff of the Department of Commerce
4 working for the State Securities Department, or both, of any action taken or
5 proposed to be taken by the commissioner or by any members of ~~his or her~~
6 ~~staff~~ the staff of the State Securities Department of the staff of the
7 Department of Commerce working for the State Securities Department; and

8
9 SECTION 594. Arkansas Code § 23-55-607(b)(3)(A), concerning
10 confidentiality under the Uniform Money Services Act, is amended to read as
11 follows:

12 (A) Information concerning ~~all~~ employees of the State
13 Securities Department or employees of the Department of Commerce working for
14 the State Securities Department and all persons subject to regulation by the
15 ~~department~~ State Securities Department; and

16
17 SECTION 595. Arkansas Code § 23-61-101 is amended to read as follows:

18 23-61-101. State Insurance Department – Continuation – Assignment of
19 space.

20 (a)(1) There is ~~continued at the seat of government of this state an~~
21 ~~office or department designated~~ created as the State Insurance Department.

22 (2) The State Insurance Department is a division of the
23 Department of Commerce.

24 (b) Suitable space shall be assigned for the use of the ~~department~~
25 State Insurance Department.

26 (c)(1)(A) The purpose of the ~~department~~ State Insurance Department is
27 to serve and protect the public interest by the equitable enforcement of the
28 state's laws and regulations affecting the insurance industry.

29 (B) The primary mission of the ~~department~~ State Insurance
30 Department shall be consumer protection through insurer solvency and market
31 conduct regulation, and fraud prosecution and deterrence.

32 (2) Nothing in this subsection shall be construed to limit the
33 Insurance Commissioner's authority as enumerated in other provisions of the
34 Arkansas Insurance Code.

35
36 SECTION 596. Arkansas Code § 23-61-102(a) and (b), concerning the

1 Insurance Commissioner, are amended to read as follows:

2 (a) The head of the State Insurance Department shall be ~~an~~ the
3 Insurance Commissioner appointed by the Governor with the advice and consent
4 of the Senate. No person shall be eligible for appointment as commissioner
5 unless a citizen of this state and at least thirty (30) years of age.

6 (b) The commissioner shall serve at the pleasure of the Governor and
7 shall report to the Secretary of the Department of Commerce.

8

9 SECTION 596. Arkansas Code § 23-61-102(e)(2), concerning the Insurance
10 Commissioner, is amended to read as follows:

11 (2) The form and surety of the bond shall be subject to the
12 approval of the ~~Governor~~ Secretary of the Department of Commerce and the
13 Auditor of State.

14

15 SECTION 598. Arkansas Code § 23-61-104 is amended to read as follows:
16 23-61-104. Deputies, assistants, and other employees – Appointment –
17 Duties.

18 (a) The Insurance Commissioner, with the approval of the Secretary of
19 the Department of Commerce, may appoint such assistants and deputies and such
20 examiners, attorneys, clerks, stenographers, and other personnel as may be
21 necessary to assist him or her in the discharge of the duties imposed upon
22 him or her under the Arkansas Insurance Code and as may be authorized by law.
23 All such personnel shall devote their entire business time to their duties in
24 the State Insurance Department.

25 (b) The commissioner, with the approval of the Secretary of the
26 Department of Commerce, may employ an actuary on a consulting or full-time
27 basis to perform such duties as the commissioner may designate.

28 (c) The commissioner, with the approval of the Secretary of the
29 Department of Commerce, may at any time terminate the appointment,
30 designation, or employment of any assistant, deputy, examiner, attorney,
31 actuary, clerk, or other employee.

32 (d) The compensation for all such personnel so appointed or employed
33 shall be as fixed by law.

34 (e) The commissioner, with the approval of the Secretary of the
35 Department of Commerce, may contract for and procure on a basis of fee such
36 independently contracting examination, actuarial, technical, and other

1 professional services as he or she may from time to time require for the
2 discharge of his or her duties.

3
4 SECTION 599. Arkansas Code § 23-61-105 is amended to read as follows:

5 23-61-105. Insurance Commissioner, deputies, assistants, and other
6 employees – Expense allowance.

7 (a) In addition to compensation for their services, the Insurance
8 Commissioner, his or her deputies, assistants, and other Department of
9 Commerce employees performing duties or working within the State Insurance
10 Department shall be paid their actual and necessary expenses as authorized by
11 the commissioner and incurred by them in the performance of their duties,
12 subject to such limitations as may be otherwise applicable pursuant to law.

13 (b) An itemized statement of all expenses for which payment is being
14 claimed shall be certified by the claimant and attached to the expense
15 voucher.

16
17 SECTION 600. Arkansas Code § 23-61-106 is amended to read as follows:

18 23-61-106. Insurance Commissioner, deputies, assistants, and other
19 employees – Financial interest prohibited – Exception.

20 (a) The Insurance Commissioner, ~~or~~ any deputy, examiner, assistant, or
21 employee of the commissioner, or any employee of the Department of Commerce
22 working for the State Insurance Department shall not be financially
23 interested, directly or indirectly, in any insurer, insurance agency, or
24 insurance transaction, except as:

25 (1) A policyholder or claimant under a policy;

26 (2) A grantor of a mortgage or similar instrument on the
27 person's residence to an entity regulated under the Arkansas Insurance Code
28 if done under customary terms and in the ordinary course of business; or

29 (3) A settlor or beneficiary of a blind trust into which any
30 otherwise impermissible holdings have been placed, provided that the
31 commissioner may make reasonable exceptions upon full and complete written
32 disclosure to the commissioner of the exact nature and extent of the
33 otherwise impermissible financial interest and adhering to any and all
34 reasonable restrictions as the commissioner may impose upon the terms and
35 conditions of employment.

36 (b) Notwithstanding the requirements of subsection (a) of this

1 section, the commissioner may employ or retain, from time to time, insurance
2 actuaries, technicians, or other professional personnel who are independently
3 practicing their professions even though similarly employed or retained by
4 insurers or others.

5 (c) The commissioner, ~~or~~ any assistant, deputy, examiner, or other
6 employee of the commissioner, or any employee of the Department of Commerce
7 working for the State Insurance Department shall not be given nor receive any
8 fee, compensation, loan, gift, or other thing of value in addition to the
9 compensation and expense allowance provided pursuant to law for any service
10 rendered or to be rendered as commissioner, deputy, examiner, or employee, or
11 in connection therewith.

12
13 SECTION 601. Arkansas Code § 23-16-108(a)(1), concerning the rules and
14 regulations to effectuate the Arkansas Insurance Code, is amended to read as
15 follows:

16 (a)(1) The Insurance Commissioner, with the approval of the Secretary
17 of the Department of Commerce, may make reasonable rules and regulations
18 necessary for or as an aid to the effectuation of any provision of the
19 Arkansas Insurance Code.

20
21 SECTION 602. Arkansas Code § 23-16-108(b)(1), concerning the rules and
22 regulations to effectuate the Arkansas Insurance Code, is amended to read as
23 follows:

24 (b)(1) The commissioner, with the approval of the Secretary of the
25 Department of Commerce, shall have the authority to promulgate rules and
26 regulations necessary for the effective regulation of the business of
27 insurance or as required for this state to be in compliance with federal
28 laws.

29
30 SECTION 603. Arkansas Code § 23-61-112(a), concerning the annual
31 report of the Insurance Commissioner, is amended to read as follows:

32 (a) As early in the calendar year as reasonably possible, the
33 Insurance Commissioner annually shall prepare and deliver a report to the
34 ~~Governor~~ Secretary of the Department of Commerce showing, with respect to the
35 preceding calendar year:

36 (1) Names of the authorized insurers transacting insurance in

1 this state, with a summary of their financial statements that the
2 commissioner considers proper;

3 (2) Names of admitted insurers that closed during the year or
4 entered liquidation, a concise statement concerning the cause for each
5 proceeding, and the amount of assets and liabilities as ascertainable;

6 (3) The total receipts and expenses of the State Insurance
7 Department for the year; and

8 (4) Other pertinent information and matters the commissioner
9 considers proper.

10

11 SECTION 604. Arkansas Code § 23-61-116 is amended to read as follows:
12 23-61-116. Annual report on health insurance fraud.

13 Annually on or before March 1, the Insurance Commissioner shall submit
14 to the ~~Governor~~ Secretary of the Department of Commerce, the President Pro
15 Tempore of the Senate, the Speaker of the House of Representatives, and the
16 Attorney General a report summarizing the State Insurance Department's
17 activities to investigate and combat health insurance fraud, including
18 without limitation information regarding:

19 (1) Referrals received;

20 (2) Investigations initiated;

21 (3) Investigations completed; and

22 (4) Other material necessary or desirable to evaluate the
23 department's efforts under this section.

24

25 SECTION 605. Arkansas Code § 23-61-1004(c), concerning the
26 administration of the Arkansas Works Program, is amended to read as follows:

27 (c) The Department of Human Services, the State Insurance Department,
28 the ~~Department~~ Division of Workforce Services, and other necessary state
29 agencies shall promulgate and administer rules to implement the Arkansas
30 Works Program.

31

32 SECTION 606. The introductory language of Arkansas Code § 23-61-
33 1004(g)(1), concerning the administration of the Arkansas Works Program, is
34 amended to read as follows:

35 (g)(1) On a quarterly basis, the Department of Human Services, the
36 State Insurance Department, the ~~Department~~ Division of Workforce Services,

1 and other necessary state agencies shall report to the Legislative Council,
2 or to the Joint Budget Committee if the General Assembly is in session,
3 available information regarding the overall Arkansas Works Program, including
4 without limitation:

5

6 SECTION 607. The introductory language of Arkansas Code § 23-61-
7 1005(b)(1), concerning requirements for eligible individuals, is amended to
8 read as follows:

9 (b)(1) An eligible individual who has up to fifty percent (50%) of the
10 federal poverty level at the time of an eligibility determination shall be
11 referred to the ~~Department~~ Division of Workforce Services to:

12

13 SECTION 608. Arkansas Code § 23-61-1005(b)(2), concerning requirements
14 for eligible individuals, is amended to read as follows:

15 (2) The Department of Human Services or its designee shall
16 provide work training opportunities, outreach, and education about work and
17 work training opportunities through the ~~Department~~ Division of Workforce
18 Services to all eligible individuals regardless of income at the time of an
19 eligibility determination.

20

21 SECTION 609. Arkansas Code § 23-61-1103(c)-(e), concerning the powers
22 and duties of the State Board of Embalmers, Funeral Directors, Cemeteries,
23 and Burial Services, are amended to read as follows:

24 (c)(1) The commissioner, with the approval of the Secretary of the
25 Department of Commerce, may appoint assistants and deputies and examiners,
26 inspectors, attorneys, clerks, stenographers, and other personnel as may be
27 necessary to assist him or her in the discharge of the duties imposed upon
28 him or her in overseeing the board.

29

(2) Personnel under subdivision (c)(1) of this section shall
30 devote their entire business time to carrying out official duties concerning
31 the board, or if appropriate, the State Insurance Department.

32

(d) The powers and authority under subsection (a) of this section
33 shall not be in diminution or limitation of the powers and authority vested
34 in the board by the various sections of this subchapter, but the board shall
35 possess all powers and authority, whether set forth in this section or not,
36 to enable it to carry out the intent and purpose of this subchapter.

1 (e)(1) The board, when it shall deem necessary, shall be represented
2 by the ~~department~~ State Insurance Department.

3 (2)(A) If deemed necessary by the board, the board may employ
4 special counsel whose services shall be paid for from funds of the board.

5 (B) Special counsel shall be retained only with the prior
6 approval of the commissioner.

7
8 SECTION 610. Arkansas Code § 23-61-1104(a)(1), concerning the
9 Executive Secretary of the State Board of Embalmers, Funeral Directors,
10 Cemeteries, and Burial Services, is amended to read as follows:

11 (a)(1) The Insurance Commissioner, with the approval of the Secretary
12 of the Department of Commerce, may appoint and employ a person as the
13 Executive Secretary of the State Board of Embalmers, Funeral Directors,
14 Cemeteries, and Burial Services who shall serve at the pleasure of the
15 commissioner.

16
17 SECTION 611. Arkansas Code § 23-61-1106(a)(1), concerning the
18 Inspector of the State Board of Embalmers, Funeral Directors, Cemeteries, and
19 Burial Services and funeral directing, embalming, cremating, or transferring
20 human remains, is amended to read as follows:

21 (a)(1) The Insurance Commissioner may ~~appoint~~ request that the
22 Department of Commerce employ an agent or agents as Inspector of the State
23 Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services.

24
25 SECTION 612. Arkansas Code § 23-92-403(f), concerning the relationship
26 of the Arkansas Professional Employer Organization Recognition and Licensing
27 Act to other laws, is amended to read as follows:

28 (f)(1) Applicants for licensing or a professional employer
29 organization licensed under this subchapter authorize the ~~Department~~ Division
30 of Workforce Services, the Workers' Compensation Commission, and the State
31 Insurance Department, or their successors, to release otherwise confidential
32 information to the other departments or commission in this subdivision (f)(1)
33 concerning the applicant or professional employer organization upon the
34 written request by the requesting department or commission.

35 (2) The ~~Department~~ Division of Workforce Services, the Workers'
36 Compensation Commission, and the State Insurance Department shall maintain

1 the confidentiality of information received under subdivision (f)(1) of this
2 section unless the information is introduced into evidence at an
3 administrative proceeding or at a civil or criminal trial arising out of a
4 violation of this subchapter that involves the applicant, the professional
5 employer organization, or the controlling person.

6
7 SECTION 613. Arkansas Code § 23-92-403(g)(2)(A), concerning the
8 relationship of the Arkansas Professional Employer Organization Recognition
9 and Licensing Act to other laws, is amended to read as follows:

10 (A) Section 11-2-101 et seq., § 11-3-101 et seq., § 11-4-
11 101 et seq., § 11-5-101 et seq., § 11-6-101 et seq., § 11-7-201 et seq., the
12 ~~Department~~ Division of Workforce Services Law, § 11-10-101 et seq., and § 11-
13 12-101 et seq.;

14
15 SECTION 614. Arkansas Code § 23-92-404(d)(3)(B)(ii)(d), concerning
16 licensing and renewal under the Arkansas Professional Employer Organization
17 Recognition and Licensing Act, is amended to read as follows:

18 (d) The commissioner shall provide a copy of
19 the order entered under subdivision (d)(3)(B)(ii)(a) of this section to the
20 Workers' Compensation Commission and the ~~Department~~ Division of Workforce
21 Services or their successors.

22
23 SECTION 615. Arkansas Code § 23-92-409(j)(2), concerning the
24 coemployment relationship between the client and the professional employer
25 organization and each coemployer governed by a professional employer
26 agreement, is amended to read as follows:

27 (2) Pay unemployment taxes as required by the ~~Department~~
28 Division of Workforce Services Law, § 11-10-101 et seq.;

29
30 SECTION 616. Arkansas Code § 23-92-413(b), concerning nondisclosure of
31 proprietary information, is amended to read as follows:

32 (b) Notwithstanding subsection (a) of this section or any other law
33 governing disclosure of confidential information, the commissioner, the
34 Director of the ~~Department~~ Division of Workforce Services, and the Workers'
35 Compensation Commission may exchange information among themselves for the
36 purposes of regulating professional employer organizations.

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SECTION 617. Arkansas Code § 23-98-108(e), concerning payroll deduction and a notice of minimum basic benefit policies, is amended to read as follows:

(e) Upon request by the commissioner, the ~~Department~~ Division of Workforce Services is authorized to provide a copy of the form of notice prepared by the commissioner to employers as the commissioner and the ~~department~~ division may agree upon.

SECTION 618. Arkansas Code § 25-10-205(h), concerning the creation of the Board of the Division of State Services for the Blind, is amended to read as follows:

(h)(1) The board shall employ a commissioner, subject to the approval of the Governor, qualified by experience to administer and implement the policies and directives of the board.

(2) The commissioner shall report to the Secretary of the Department of Commerce.

(3) The board may employ or appoint any additional personnel necessary to carry out the functions, duties, and responsibilities entrusted to the Division of State Services for the Blind in accordance with the requirements of law and within the limits of available appropriations.

SECTION 619. Arkansas Code § 25-10-206 is amended to read as follows:
25-10-206. Legal counsel.

The Division of State Services for the Blind within the Department of ~~Human Services~~ Commerce or any employees or committees thereof shall be entitled to the services of the Attorney General in connection with the operation of the affairs of the division.

SECTION 620. Arkansas Code § 25-10-207 is amended to read as follows:
25-10-207. Division of State Services for the Blind Fund.

Any sums provided by the General Assembly for the purposes of this subchapter shall be kept by the Treasurer of State in a fund to be designated as the ~~State Services for the Blind Fund Account of the Department of Human Services Fund~~ "State Services for the Blind Fund Account of the Department of Commerce Fund" and shall be used to carry out the particular purposes

1 assigned to it in this subchapter.

2

3 SECTION 621. Arkansas Code § 25-10-208 is amended to read as follows:

4 25-10-208. State services for the blind – Supplemental insurance.

5 Staff members who transport blind and visually impaired persons on
6 official state business of the Division of State Services for the Blind
7 within the Department of ~~Human Services~~ Commerce are entitled to
8 reimbursement for supplemental insurance costs. Costs incurred for
9 supplemental liability automobile insurance above the minimum required by law
10 for the purpose of including coverage for work-related activities shall be
11 reimbursed through standard travel procedures annually, not to exceed fifty
12 dollars (\$50.00) per year.

13

14 SECTION 622. Arkansas Code § 25-10-209(a), concerning the creation of
15 Information Reading Services for the Blind, is amended to read as follows:

16 (a) ~~The~~ Information Reading Services for the Blind is created within
17 the Division of State Services for the Blind of the Department of ~~Human~~
18 ~~Services~~ Commerce.

19

20 SECTION 623. Arkansas Code § 25-10-209(d), concerning the creation of
21 Information Reading Services for the Blind, is amended to read as follows:

22 (d) The Director of the Division of State Services for the Blind of
23 the Department of ~~Human Services~~ Commerce shall consult at least annually
24 with active consumers of Information Reading Services for the Blind,
25 including participating state agencies, in the design, improvement, and
26 delivery of the services.

27

28 SECTION 624. Arkansas Code § 25-11-101 is amended to read as follows:

29 25-11-101. Creation – Director – Organization – Personnel.

30 (a) There is created the Arkansas Economic Development Commission.

31 (b)(1) The executive head of the commission shall be the Director of
32 the Arkansas Economic Development Commission. The director shall be appointed
33 by the Governor, with the advice of the Arkansas Economic Development Council
34 and the consent of the Senate, and shall serve at the pleasure of the
35 Governor.

36

(2) The director shall report to the Secretary of the Department

1 of Commerce.

2 (c) The commission shall consist of the divisions that may be
3 necessary to fulfill its purposes and that may be created by law and placed
4 under the commission.

5 (d) The director, with the advice and consent of the Governor, shall
6 appoint the heads of the respective divisions. All other personnel of the
7 commission shall be employed by and shall serve at the pleasure of the
8 director. However, nothing in this section shall be so construed as to
9 reduce any right that an employee of the commission shall have under any
10 civil service or merit system.

11 (e) Each division of the commission shall be under the direction,
12 control, and supervision of the director. The director may delegate his or
13 her functions, powers, and duties to various divisions of the commission as
14 he or she shall deem desirable and necessary for the effective and efficient
15 operation of the commission.

16 (f) All personnel of the commission are employees of the Department of
17 Commerce.

18

19 SECTION 625. Arkansas Code § 25-15-202(1)(B), concerning the
20 definition of "adjudication" under the Arkansas Administrative Procedure Act,
21 is amended to read as follows:

22 (B) "Adjudication" does not include inmate disciplinary
23 proceedings conducted by the ~~Department~~ Division of Correction and the
24 ~~Department~~ Division of Community Correction;

25

26 SECTION 626. Arkansas Code § 25-15-202(2)(C), concerning the
27 definition of "agency" under the Arkansas Administrative Procedure Act, is
28 amended to read as follows:

29 (C) The word "agency" shall not include the Arkansas
30 Public Service Commission, the Arkansas Pollution Control and Ecology
31 Commission, the Workers' Compensation Commission, and the ~~Department~~ Division
32 of Workforce Services, as the existing laws governing those agencies provide
33 adequate administrative procedures for those agencies.

34

35 SECTION 627. Arkansas Code § 25-29-110 is amended to read as follows:
36 25-29-110. Annual report.

1 The Board of Directors of the Arkansas Deaf and Hearing Impaired
2 Telecommunications Services Corporation shall transmit to the Legislative
3 Council, the ~~Governor~~ Secretary of the Department of Commerce, and the
4 Arkansas Public Service Commission an annual report of its activities. The
5 annual report shall be filed by March 31 of each year.

6
7 SECTION 628. Arkansas Code § 25-30-101(b)(2)(A)-(C), concerning
8 creation and membership of the Career and Technical Education and Workforce
9 Development Board, are amended to read as follows:

10 (A) The Commissioner of Elementary and Secondary
11 Education;

12 (B) The Director of the ~~Department~~ Division of Higher
13 Education;

14 (C) The ~~Executive~~ Director of the Arkansas Community
15 Colleges;

16
17 SECTION 629. Arkansas Code § 25-30-101(b)(2)(E), concerning creation
18 and membership of the Career Education and Workforce Development Board, is
19 amended to read as follows:

20 (E) The Director of the ~~Department~~ Division of Workforce
21 Services;

22
23 SECTION 630. Arkansas Code § 25-30-109(a)(1) and (2), concerning the
24 creation and duties of the Office of Skills Development, are amended to read
25 as follows:

26 (a)(1) There is created within the ~~Department of Career Education~~
27 ~~under the oversight of the Career Education and Workforce Development Board~~
28 ~~an~~ Department of Commerce the Office of Skills Development.

29 (2)(A) The Director of the Office of Skills Development shall be
30 appointed by the ~~Director of the Department of Career Education~~ Secretary of
31 the Department of Commerce in consultation with the Career Education and
32 Workforce Development Board.

33 (B) The Director of the ~~Department of Career Education~~
34 Office of Skills Development may hire personnel necessary to carry out the
35 duties of the office.

36

1 SECTION 631. Arkansas Code § 25-30-109(b)(7), concerning the creation
2 and duties of the Office of Skills Development, is amended to read as
3 follows:

4 (7)(A) Use ~~the Department of Career Education and other~~
5 available labor market information systems to collect, analyze, and
6 disseminate information on current and projected employment opportunities in
7 this state and other appropriate information relating to labor market
8 dynamics as determined by the office.

9 (B) The office shall make the information contained in the
10 labor market information system available on the ~~Department of Career~~
11 ~~Education's~~ Office of Skills Development's website.

12
13 SECTION 632. Arkansas Code § 25-30-202(b), concerning the scope of
14 authority of the Rehabilitation Act of Arkansas, is amended to read as
15 follows:

16 (b) Any and all statutory authority, powers, duties, functions,
17 records, authorized positions, property, unexpended balances of
18 appropriations, allocations, or other funds transferred from the Division of
19 Rehabilitation Services to the Department of Human Services by Acts 1985, No.
20 348, are hereby transferred to Arkansas Rehabilitation Services ~~of the~~
21 ~~Department of Career Education~~.

22
23 SECTION 633. Arkansas Code § 25-30-203(a), concerning the powers and
24 duties of the State Board of Career Education, is amended to read as follows:

25 (a) The ~~State Board of Career Education~~ Arkansas Workforce Development
26 Board, through the Arkansas Rehabilitation Services ~~of the Department of~~
27 ~~Career Education~~, shall provide the rehabilitation services authorized by
28 this subchapter to eligible physically or mentally disabled individuals and
29 those who can benefit from vocational rehabilitation and independent living
30 services, as determined by the agency to be eligible therefor.

31
32 SECTION 634. Arkansas Code § 25-30-205 is amended to read as follows:

33 25-30-205. Office facilities.

34 The Building Authority Division ~~of the Department of Finance and~~
35 ~~Administration~~ shall ensure that all offices of Arkansas Rehabilitation
36 Services ~~of the Department of Career Education~~ are exemplary models of

1 accessibility and conform to the Americans with Disabilities Act, 42 U.S.C. §
2 12101 et seq., accessibility guidelines.

3
4 SECTION 635. Arkansas Code § 25-30-206(b)(1), concerning the creation
5 of the Arkansas Rehabilitation Services Forgiveness of Student Loan Program,
6 is amended to read as follows:

7 (b)(1) The program shall be administered by ~~the~~ Arkansas
8 Rehabilitation Services ~~of the Department of Career Education~~.

9
10 SECTION 636. Arkansas Code § 26-51-505(e)(2), concerning the
11 establishment or expansion of a manufacturing enterprise, is amended to read
12 as follows:

13 (2) The ~~division~~ Revenue Division of the Department of Finance
14 and Administration shall consult with the ~~Department~~ Division of Workforce
15 Services and the Arkansas Economic Development Council during the
16 promulgation of the rules and regulations.

17
18 SECTION 637. Arkansas Code § 26-51-815(d)(2)(D), concerning the
19 definition of "qualified technology incubator" under the laws regarding
20 computing capital gains and losses, is amended to read as follows:

21 (D) "Qualified technology incubator" means a business
22 incubator certified by the ~~Executive~~ Director of the Arkansas Economic
23 Development Commission with the advice of the Board of Directors of the
24 Division of Science and Technology of the Arkansas Economic Development
25 Commission as being a facility operated in cooperation with an Arkansas
26 college or university to foster the growth of technology-based enterprises.

27
28 SECTION 638. Arkansas Code § 26-51-1102(c)(2)(A), concerning the
29 granting of a tax credit for donations of new machinery or equipment by
30 taxpayer to an educational institution, is amended to read as follows:

31 (A) Be consistent with the research and development plan
32 approved by the ~~Executive~~ Director of the Arkansas Economic Development
33 Commission with the advice of the Board of Directors of the Division of
34 Science and Technology of the Arkansas Economic Development Commission, as
35 evidenced by a letter of support from the ~~executive~~ director; and

36

1 SECTION 639. Arkansas Code § 27-115-101 is amended to read as follows:
2 27-115-101. Creation.

3 There is created a commission to be known as the "~~Arkansas Department~~
4 Division of Aeronautics", which shall maintain an office in the City of
5 Little Rock.

6
7 SECTION 640. Arkansas Code § 27-115-102 is amended to read as follows:
8 27-115-102. Purpose.

9 The ~~Arkansas Department~~ Division of Aeronautics is established and
10 authorized to represent the State of Arkansas in the promotion and
11 development of landing fields, airports, hangars, and other aeronautical
12 projects and to cooperate with and secure the cooperation of the Federal
13 Aviation Administration and any other duly authorized federal agencies
14 interested in the development of aeronautics.

15
16 SECTION 641. Arkansas Code § 27-115-103(a), concerning the Arkansas
17 Department of Aeronautics, is amended to read as follows:

18 (a) The ~~Arkansas Department~~ Division of Aeronautics shall be composed
19 of seven (7) members appointed by the Governor.

20
21 SECTION 642. Arkansas Code § 27-115-104 is amended to read as follows:
22 27-115-104. Director.

23 Any person employed as Director of the ~~Arkansas Department~~ Division of
24 Aeronautics shall possess the qualifications of a multi-engine commercial
25 pilot. No other flight or pilot qualification shall be required for such
26 director.

27
28 SECTION 643. Arkansas Code § 27-115-105 is amended to read as follows:
29 27-115-105. ~~Secretary~~ Director.

30 (a) The ~~Secretary~~ Director of the ~~Arkansas Department~~ Division of
31 Aeronautics, ~~or the administrative head of the department,~~ shall be appointed
32 by the ~~department~~ Secretary of the Department of Commerce with the approval
33 of the Governor and shall serve at the pleasure of the Governor.

34 (b) The director shall report to the secretary.

35
36 SECTION 644. Arkansas Code § 27-115-106 is amended to read as follows:

1 27-115-106. Administration – Promulgation of rules and regulations.
2 The ~~Arkansas Department~~ Division of Aeronautics shall administer the
3 provisions of this chapter and § 27-116-101 et seq. and is authorized and
4 directed to promulgate regulations, as approved by the Secretary of the
5 Department of Commerce, as necessary to execute the powers invested in ~~it~~ the
6 division by this chapter and § 27-116-101 et seq. and other applicable laws.
7

8 SECTION 645. Arkansas Code § 27-115-107 is amended to read as follows:

9 27-115-107. Powers generally.

10 (a) The ~~Arkansas Department~~ Division of Aeronautics shall have the
11 right to:

12 (1) Receive grants and donations, appropriations, and other
13 funds or materials on behalf of the state, ~~or any county, or municipality, or~~
14 other eligible applicants for utilization in the development of aeronautics,
15 provided that the ~~department~~ division shall not have the right to use the
16 funds received for a particular purpose for any other purpose without the
17 consent of the person or agency providing the particular funds; and

18 (2) Plan and lay out a state system of landing fields, airports,
19 and airways and to inspect them and to close any landing field or airport
20 found to be unsafe.

21 (b) The ~~department~~ division is authorized:

22 (1) To accept as a loan or a gift any aircraft made available
23 for its use by the federal government or any agency thereof; or

24 (2) To match any funds made available by the federal government,
25 any agency thereof, or any person or corporation with any moneys available to
26 the ~~department~~ division for the purpose of acquiring any aircraft which it
27 may deem necessary to the proper performance of its duties as provided by
28 law.
29

30 SECTION 646. Arkansas Code § 27-115-108 is amended to read as follows:

31 27-115-108. Duties generally.

32 (a) It shall be the duty of the ~~Arkansas Department~~ Division of
33 Aeronautics to:

34 (1) Provide for the examination, rating, and licensing of
35 airports, landing fields, and air navigation facilities available for the use
36 of aircraft;

1 (2) Adopt, with the approval of the Secretary of the Department
2 of Commerce, rules and regulations for the issuance, expiration, suspension,
3 or revocation of licenses of airports, landing fields, and air navigation
4 facilities, and of other licenses or certificates that the ~~department~~
5 division deems necessary in administering the functions vested in the
6 ~~department~~ division under this chapter and § 27-116-101 et seq.;

7 (3) Establish, set apart, and provide for the protection of
8 necessary air space reservations within the state in addition to and not in
9 conflict with air space reservations established by the President of the
10 United States or any department of the United States or with any civil or
11 military airway designated under the provisions of the Air Commerce Act of
12 1926 and the amendments thereto, or other act of Congress pertaining thereto;

13 (4) Designate, establish, and chart civil airways within, over,
14 and above the lands or waters of the state and arrange for publication of
15 maps of such airways, utilizing the facilities and assistance of existing
16 agencies of the state as far as practicable. The ~~department~~ division shall
17 grant no exclusive right for the use of any civil airway, airport,
18 intermediate landing field, or other air navigation facility under its
19 jurisdiction;

20 (5) Investigate, record, and report the causes of accidents in
21 civil air navigation within this state;

22 (6) Encourage the establishment of airports, civil airways, and
23 other air navigation facilities;

24 (7) Supervise and regulate the safety, adequacy, and sufficiency
25 of all airports, landing fields, and air navigation facilities and equipment
26 used or to be used in private or commercial flying;

27 (8) Adopt, with the approval of the Secretary of the Department
28 of Commerce, rules and regulations governing instruction in flight or ground
29 school offered to student fliers or mechanics when the instruction is
30 conducted by individual flight instructors licensed under appropriate Federal
31 Aviation Administration regulations and adopt rules and regulations governing
32 the safety, adequacy, and sufficiency of airports, landing fields, and air
33 navigation facilities and equipment used or to be used in the instruction of
34 student fliers or mechanics;

35 (9) Adopt, with the approval of the Secretary of the Department
36 of Commerce, rules and regulations for the marking of highways,

1 municipalities, and all other serial markings used throughout the state;

2 (10) Adopt, with the approval of the Secretary of the Department
3 of Commerce, rules and regulations governing the erection, location, and
4 maintenance of aerial beacon lights and other aerial night lighting equipment
5 within the state;

6 (11) Exchange with the Federal Aviation Administration and other
7 state governments through existing governmental channels information
8 pertaining to civil air navigation;

9 (12) Enforce the regulations and air traffic rules, promulgated
10 as provided hereunder, through the assistance and cooperation of state and
11 local authorities charged with the enforcement of law in their respective
12 jurisdictions;

13 (13) Establish by regulation, with the approval of the Secretary
14 of the Department of Commerce, the minimum safe altitudes for flight,
15 including air traffic rules; and

16 (14) Establish, with the approval of the Secretary of the
17 Department of Commerce, posting requirements for compliance with § 12-19-102,
18 concerning the posting of information about the National Human Trafficking
19 Resource Center Hotline.

20 (b) All rules and regulations prescribed by the ~~department~~ division
21 under the authority of this section shall be consistent with and conform to
22 current federal legislation governing aeronautics and the regulations duly
23 promulgated thereunder and rules issued from time to time pursuant thereto.
24 Nothing in this section shall confer upon the ~~department~~ division the power
25 to determine schedules, issue stock, or determine public convenience or the
26 adequacy and sufficiency of service of common carriers engaged in commercial
27 flying within this state.

28
29 SECTION 647. Arkansas Code § 27-115-109 is amended to read as follows:
30 27-115-109. Location and construction of landing fields.

31 (a) The ~~Arkansas Department~~ Division of Aeronautics shall assist in
32 the location of landing fields and the promotion and development of
33 aeronautics throughout the state.

34 (b) The ~~Arkansas Department of Aeronautics~~ division may use for the
35 construction and development of these fields and for the grading and
36 construction of highways leading thereto, any equipment of the Arkansas

1 Department of Transportation which is not at that time required for other
2 construction purposes.

3
4 SECTION 648. Arkansas Code § 27-115-110 is amended to read as follows:
5 27-115-110. Disposition of funds.

6 (a) All revenues derived from the levying of the Arkansas Gross
7 Receipts Tax, as amended, § 26-52-101 et seq., upon aircraft and aviation
8 fuel, aviation services, aircraft parts and accessories, and other gross
9 receipts taxes remitted by aircraft dealers, airports, and flying fields
10 shall be reported to the ~~Director~~ Secretary of the Department of Finance and
11 Administration in a manner and on forms as he or she shall direct.

12 (b) The ~~Arkansas Department~~ Division of Aeronautics is authorized to
13 accept donations and grants of all property, whether real or personal.

14 (c) Tax proceeds and grants and donations of money shall be special
15 revenues and shall be deposited in the State Treasury to the credit of the
16 ~~Arkansas Department~~ Division of Aeronautics Fund to be used for constructing
17 and improving airports, civil airways, and other air navigation facilities
18 and for preserving the history of aviation in the state.

19 (d) The ~~Arkansas Department of Aeronautics~~ division shall administer
20 the funds so deposited and shall use the funds for the sole purpose of
21 building airports, civil airways, and other air navigation facilities in this
22 state in those cities or towns as the ~~Arkansas Department of Aeronautics~~
23 division, in coordination with the Arkansas Economic Development Council,
24 shall determine would attract the greatest volume of industry to this state.

25 (e) The funds may also be used for the purpose of:

26 (1) Matching funds with any federal funds made available for the
27 purpose of this section; or

28 (2)(A) Establishing an aviation museum to preserve the history
29 of aviation in the state.

30 (B) Assistance for the establishment of an aviation museum
31 shall not exceed a total of twenty thousand dollars (\$20,000).

32 (f)(1) All revenues derived from the levying of the compensating use
33 tax under the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.,
34 upon aircraft and aviation fuel, aviation services, and aircraft parts and
35 accessories remitted by aircraft dealers, airports, and flying fields shall
36 be reported to the Director of the ~~Arkansas Department~~ Division of

1 Aeronautics in a manner and on forms as he or she shall direct.

2 (2) ~~The first eight hundred thousand dollars (\$800,000) of the~~
3 ~~state use tax collected after June 30, 1997, and collected through June 30,~~
4 ~~1998, shall be deposited in the State Treasury as general revenues. The~~
5 ~~remainder of the revenues collected during this period shall be special~~
6 ~~revenues and shall be deposited in the State Treasury to the credit of the~~
7 ~~fund to be used for the purposes set forth in this subsection.~~

8 (3) ~~The first eight hundred thousand dollars (\$800,000) of the~~
9 ~~state use tax collected after June 30, 1998, and collected through June 30,~~
10 ~~1999, shall be deposited in the State Treasury as general revenues. The~~
11 ~~remainder of the revenues collected during this period shall be special~~
12 ~~revenues and shall be deposited in the State Treasury to the credit of the~~
13 ~~fund to be used for the purposes set forth in this subsection.~~

14 (4) ~~The first four hundred thousand dollars (\$400,000) of the~~
15 ~~state use tax collected after June 30, 1999, and collected through June 30,~~
16 ~~2000, shall be deposited in the State Treasury as general revenues. The~~
17 ~~remainder of the revenues collected during this period shall be special~~
18 ~~revenues and shall be deposited in the State Treasury to the credit of the~~
19 ~~fund to be used for the purposes set forth in this subsection.~~

20 (5) ~~The first two hundred thousand dollars (\$200,000) of the~~
21 ~~state use tax collected after June 30, 2000, and collected through June 30,~~
22 ~~2001, shall be deposited in the State Treasury as general revenues. The~~
23 ~~remainder of the revenues collected during this period shall be special~~
24 ~~revenues and shall be deposited in the State Treasury to the credit of the~~
25 ~~fund to be used for the purposes set forth in this subsection.~~

26 (6) ~~Beginning July 1, 2001, all All state use tax derived shall~~
27 ~~be special revenues and shall be deposited in the State Treasury to the~~
28 ~~credit of the fund to be used for the purposes set forth in this subsection.~~
29

30 SECTION 649. Arkansas Code Title 25, Chapter 43, is amended to add an
31 additional subchapter to read as follows:

32 Subchapter 4 – Department of Corrections

33
34 25-43-401. Department of Corrections.

35 (a) There is created the Department of Corrections as a cabinet-level
36 department.

1 (b)(1) The Board of Corrections:

2 (A) Is affiliated with the department;

3 (B) Shall be the governing authority of the department;

4 and

5 (C) Shall perform all functions with respect to the
6 management and control of the department as contemplated by Arkansas
7 Constitution, Amendment 33.

8 (2) No provision of the Transformation and Efficiencies Act of
9 2019 shall abridge, diminish, or curtail, in any respect, the authority
10 vested in the board to govern and supervise the administration of the board's
11 responsibilities prior to the effective date of this act, including without
12 limitation governing and supervising the administration of the state
13 correctional institutions.

14 (c) The department shall:

15 (1) Maintain and administer real property on behalf of each
16 state entity transferred under this chapter if the real property is not under
17 the supervision and control of the board; and

18 (2) Maintain and administer all personal property on behalf of
19 each state entity transferred under this chapter.

20 (d) The department shall:

21 (1) Assist the board with developing a biennial budget and
22 annual, quarterly, and monthly fiscal plans for the operation of the board
23 and assist the board in complying with the budget and fiscal policies
24 promulgated by the Secretary of the Department of Corrections;

25 (2) Assist the board with complying with the general guidelines,
26 policies, and rules of the department with respect to personnel and personnel
27 policies, records, purchasing, bookkeeping, and other administrative
28 procedures prescribed by the department;

29 (3) Consult with the board regarding personnel decisions and
30 staffing; and

31 (4) Coordinate the policies promulgated by the board for the
32 administration of personnel and personnel records to assure that all employee
33 records and personnel records of the board conform to the personnel policies
34 and practices of the department.

35
36 25-43-402. State entities transferred to Department of Corrections.

1 (a) The administrative functions of the following state entities are
2 transferred to the Department of Corrections by a cabinet-level department
3 transfer:

4 (1) The Arkansas Sentencing Commission, created under § 16-90-
5 802;

6 (2) The Corrections School System, created under § 12-29-301;

7 (3) The criminal detention facility review committees, under §
8 12-26-101;

9 (4) The Department of Community Correction, created under § 12-
10 27-124, and now to be known as the Division of Community Correction;

11 (5) The Department of Correction, created under § 12-27-101, and
12 now to be known as the Division of Correction;

13 (6) The Office of Criminal Detention Facilities, created under §
14 12-26-103;

15 (7) The Parole Board, created under 16-93-201; and

16 (8) The State Council for Interstate Commission for Adult
17 Offender Supervision, created under 12-51-104.

18 (b) Unless otherwise provided by law, a cabinet-level department
19 transfer under subsection (a) of this section includes all state entities
20 under a state entity transferred to the Department of Corrections under
21 subsection (a) of this section, including without limitation a division,
22 office, program, or other unit of a state entity transferred to the
23 Department of Corrections under subsection (a) of this section.

24 (c) Unless otherwise provided by law, a state entity whose
25 administrative functions have been transferred to the Department of
26 Corrections under subsection (a) of this section shall otherwise continue to
27 exercise the duties of the state entity under the administration of the
28 cabinet-level Department of Corrections in the same manner as before the
29 creation of the cabinet-level department.

30
31 25-43-403. Secretary of the Department of Corrections.

32 (a) The executive head of the Department of Corrections shall be the
33 Secretary of the Department of Corrections.

34 (b)(1) The Governor shall nominate to the Board of Corrections a
35 candidate for secretary, subject to confirmation by the Senate.

36 (2)(A) The Board of Corrections shall appoint the secretary who

1 shall serve at the pleasure of the Board of Corrections.

2 (B) The board is not required to appoint the nominee under
3 subdivision (b)(1) of this section.

4 (c) The secretary may perform all duties to administer the Department
5 of Corrections, subject to Arkansas Constitution, Amendment 33, including
6 without limitation:

7 (1) Delegate to the employees of the Department of Corrections
8 any of the powers or duties of the department required to administer the:

9 (A) Statutory duties; or

10 (B) Rules, orders, or directives promulgated or issued by
11 the state entities transferred to or established within the department.

12 (2) Hire department personnel; and

13 (3) Perform or assign duties assigned to the department.

14
15 SECTION 650. Arkansas Code § 5-2-330 is amended to read as follows:

16 5-2-330. Examination by ~~Department~~ Division of Correction prohibited.

17 A defendant committed to and under the supervision of the ~~Department~~
18 Division of Correction who is charged in circuit court shall not undergo an
19 examination or observation conducted under this subchapter by a psychiatrist
20 or other mental health employee of the division to determine the mental
21 condition of the defendant.

22
23 SECTION 651. The introductory language of Arkansas Code § 5-2-613(a),
24 concerning the use of physical force to prevent escape from a correctional
25 facility or custody of a correctional officer, is amended to read as follows:

26 (a) Unless the correctional officer knows or reasonably should know
27 that a prisoner is charged with or has been convicted of only a misdemeanor,
28 a correctional officer employed by the ~~Department~~ Division of Correction or
29 by a private contractor in a correctional facility housing inmates for the
30 division or a city or county correctional officer employed in a correctional
31 facility or jail is justified in using deadly physical force when and to the
32 extent that the correctional officer reasonably believes the use of deadly
33 physical force is necessary to prevent the escape of a prisoner from:

34
35 SECTION 652. Arkansas Code § 5-4-102(e), concerning presentence
36 investigations, is amended to read as follows:

1 (e) If the defendant is sentenced to imprisonment, a copy of the
2 report of any presentence investigation or psychiatric examination or
3 evaluation shall be transmitted immediately to the ~~Department~~ Division of
4 Correction or, when the defendant is committed to the custody of a specific
5 institution, to that specific institution.

6
7 SECTION 653. Arkansas Code § 5-4-104(f), concerning authorized
8 sentences, is amended to read as follows:

9 (f)(1) If the court determines that an offender under eighteen (18)
10 years of age would be more amenable to a rehabilitation program of the
11 Division of Youth Services of the Department of Human Services and that he or
12 she previously has not been committed to the division on more than one (1)
13 occasion, the court may sentence the offender under eighteen (18) years of
14 age to the ~~Department~~ Division of Correction for a term of years, suspend the
15 sentence, and commit him or her to the custody of the ~~division~~ Division of
16 Youth Services of the Department of Human Services.

17 (2) In a case under subdivision (f)(1) of this section, if the
18 offender under eighteen (18) years of age completes the program of the
19 division satisfactorily, the ~~division~~ Division of Youth Services of the
20 Department of Human Services shall return him or her to the sentencing court
21 and provide the sentencing court with a written report of his or her progress
22 and a recommendation that the offender under eighteen (18) years of age be
23 placed on probation.

24 (3)(A) In the event that the offender under eighteen (18) years
25 of age violates a rule of the ~~division's~~ Division of Youth Services of the
26 Department of Human Services' program or facility or is otherwise not
27 amenable to the ~~division's~~ Division of Youth Services of the Department of
28 Human Services' rehabilitative effort, the ~~division~~ Division of Youth
29 Services of the Department of Human Services may return him or her to the
30 sentencing court with a written report of his or her conduct and a
31 recommendation that the offender under eighteen (18) years of age be
32 transferred to the ~~Department~~ Division of Correction.

33 (B) If the court finds that the offender under eighteen
34 (18) years of age has violated a rule of the ~~division's~~ Division of Youth
35 Services of the Department of Human Services' program or facility or is
36 otherwise not amenable to the ~~division's~~ Division of Youth Services of the

1 Department of Human Services' rehabilitative effort, the court shall then
2 revoke the suspension of the sentence originally imposed and commit the
3 offender under eighteen (18) years of age to the ~~Department~~ Division of
4 Correction.

5

6 SECTION 654. Arkansas Code § 5-4-107(a)(1) and (2), concerning
7 extended supervision and monitoring for certain sex offenders, are amended to
8 read as follows:

9 (a)(1) The ~~Department~~ Division of Correction within one hundred twenty
10 (120) days before the release on parole of a person who is required to
11 register as a sex offender under the Sex Offender Registration Act of 1997, §
12 12-12-901 et seq., shall notify in writing the prosecuting attorney in the
13 judicial district in which the person was sentenced of the person's impending
14 release on parole.

15 (2) The ~~Department~~ Division of Community Correction within one
16 hundred twenty (120) days before the release from probation of a person who
17 is required to register as a sex offender under the Sex Offender Registration
18 Act of 1997, § 12-12-901 et seq., shall notify in writing the prosecuting
19 attorney in the judicial district in which the person was sentenced of the
20 person's impending release from probation.

21

22 SECTION 655. Arkansas Code § 5-4-107(b)(3), concerning extended
23 supervision and monitoring for certain sex offenders, is amended to read as
24 follows:

25 (3) If a hearing is requested, it shall be held at the earliest
26 practicable time and at a time and on a date that would accommodate the
27 transport of the person from a ~~Department~~ Division of Correction facility,
28 ~~Department~~ Division of Community Correction facility, or the Arkansas State
29 Hospital to the appropriate circuit court.

30

31 SECTION 656. Arkansas Code § 5-4-107(h), concerning extended
32 supervision and monitoring for certain sex offenders, is amended to read as
33 follows:

34 (h) The ~~Department~~ Division of Community Correction shall administer
35 any extended supervision and monitoring under this section and may adopt
36 rules to implement this section.

1
2 SECTION 657. Arkansas Code § 5-4-304(c)(1)(B), concerning confinement
3 as a condition of suspension or probation, is amended to read as follows:

4 (B) In the case of confinement to a facility in the
5 ~~Department~~ Division of Community Correction, the period actually spent in
6 confinement under this section shall not exceed three hundred sixty-five
7 (365) days.

8
9 SECTION 658. Arkansas Code § 5-4-312(b)(1)(D)(ii) and (iii),
10 concerning presentence investigations and placement in community correction
11 programs, are amended to read as follows:

12 (ii) Upon revocation as described in subdivision
13 (b)(1)(D)(i) of this section, the court shall determine whether the defendant
14 shall remain under the jurisdiction of the court and be assigned to a more
15 restrictive community correction program, facility, or institution for a
16 period of time or committed to the ~~Department~~ Division of Correction.

17 (iii) If the defendant is committed to the
18 ~~Department~~ Division of Correction under subdivision (b)(1)(D)(ii) of this
19 section, the court shall specify if the commitment is for judicial transfer
20 of the defendant to the ~~Department~~ Division of Community Correction or is a
21 commitment to the ~~Department~~ Division of Correction;

22
23 SECTION 659. Arkansas Code § 5-4-312(b)(2) and (3), concerning
24 presentence investigations and placement in community correction programs,
25 are amended to read as follows:

26 (2)(A) Commit the defendant to the custody of the ~~Department~~
27 Division of Correction for judicial transfer to the ~~Department~~ Division of
28 Community Correction subject to the following:

29 (i) That the sentence imposed provides that the
30 defendant shall not serve more than three (3) years of confinement, with
31 credit for meritorious good time, with initial placement in a ~~Department~~
32 Division of Community Correction facility; and

33 (ii) That the preliminary placement in the
34 ~~Department~~ Division of Community Correction facility is conditioned upon the
35 ~~Department~~ Division of Community Correction's final determination of the
36 defendant's initial and continuing eligibility for ~~Department~~ Division of

1 Community Correction placement and the defendant's compliance with all
2 applicable rules established by the Board of Corrections for community
3 correction programs.

4 (B) Post-prison supervision of the defendant shall
5 accompany and follow the community correction program when appropriate; or

6 (3)(A) Sentence the defendant to the ~~Department~~ Division of
7 Correction, granting the ~~Department~~ Division of Correction the ability to
8 administratively transfer the defendant to the ~~Department~~ Division of
9 Community Correction if the ~~Department~~ Division of Correction determines that
10 the sentence imposed meets the eligibility requirements for placement in a
11 community correction program under this subchapter and § 16-93-1201 et seq.

12 (B) Administrative transfer to the ~~Department~~ Division of
13 Community Correction under subdivision (b)(3)(A) of this section is
14 conditioned upon bed space availability and upon the ~~Department~~ Division of
15 Community Correction's final determination of the defendant's initial and
16 continuing eligibility for ~~Department~~ Division of Community Correction
17 placement.

18 (C) A determination of ineligibility under subdivision
19 (b)(3)(A) of this section by the ~~Department~~ Division of Community Correction
20 shall result in the immediate return of the defendant to the ~~Department~~
21 Division of Correction.

22 (D) A decision to release a defendant administratively
23 transferred to the ~~Department~~ Division of Community Correction from the
24 ~~Department~~ Division of Correction under subdivision (b)(3)(A) of this section
25 is vested solely with the Parole Board.

26
27 SECTION 660. Arkansas Code § 5-4-312(d), concerning presentence
28 investigations and placement in community correction programs, is amended to
29 read as follows:

30 (d)(1) If after receipt of an order directing a defendant to a
31 community correction center, the ~~Department~~ Division of Community Correction
32 determines that the defendant is not eligible for placement in a community
33 correction program under § 16-93-1201 et seq., the ~~Department~~ Division of
34 Community Correction shall not admit the defendant but shall immediately
35 notify the prosecuting attorney in writing.

36 (2) After receipt of the notice required under subdivision

1 (d)(1) of this section, the prosecuting attorney shall notify the court of
2 the defendant's ineligibility for placement in a community correction center,
3 and the court shall resentence the defendant accordingly.
4

5 SECTION 661. Arkansas Code § 5-4-320(a), concerning certain convicted
6 felons to observe operations of correctional facilities, is amended to read
7 as follows:

8 (a) Any person who pleads guilty or nolo contendere or is found guilty
9 in any circuit court of this state of a felony and whose sentence of
10 imprisonment is placed on suspension or who is placed on probation may be
11 ordered by the circuit court to report to an appropriate ~~Department~~ Division
12 of Correction facility on a date certain to be scheduled by the ~~department~~
13 division for the duration of that work day to observe the operation of the
14 ~~department's~~ division's facility.
15

16 SECTION 662. Arkansas Code § 5-4-402 is amended to read as follows:

17 5-4-402. Place of imprisonment.

18 (a) Except as provided in §§ 5-4-304 and 16-93-708, a defendant
19 convicted of a felony and sentenced to imprisonment shall be committed to the
20 custody of the ~~Department~~ Division of Correction for the term of his or her
21 sentence or until released in accordance with law.

22 (b) Except as provided in § 16-93-708, a defendant convicted of a
23 misdemeanor and sentenced to imprisonment shall be committed to the county
24 jail or other authorized institution designated by the court for the term of
25 his or her sentence or until released in accordance with law.

26 (c) Except as provided in § 5-4-304 or § 16-93-708, a defendant
27 convicted of a felony violation of §§ 5-64-419 – 5-64-442 and sentenced to
28 imprisonment shall be committed to the custody of the ~~Department~~ Division of
29 Correction for the term of his or her sentence or until released in
30 accordance with law.

31 (d)(1)(A) A juvenile sentenced in circuit court who is less than
32 sixteen (16) years of age when sentenced shall be committed to the custody of
33 the Division of Youth Services of the Department of Human Services until his
34 or her sixteenth birthday, at which time he or she shall be transferred to
35 the ~~Department~~ Division of Correction, except as provided by court order or
36 parole decision made by the Parole Board.

1 (B) Any record from the ~~division~~ Division of Youth
2 Services of the Department of Human Services shall be transferred to the
3 ~~Department~~ Division of Correction at the time the juvenile is transferred.

4 (2) A juvenile less than sixteen (16) years of age who is
5 awaiting transfer to the ~~Department~~ Division of Correction shall be
6 segregated from the general delinquency population housed at the ~~division~~
7 Division of Youth Services of the Department of Human Services.

8 (e)(1) With the consent and approval of the ~~division~~ Division of Youth
9 Services of the Department of Human Services, the ~~Department~~ Division of
10 Correction may transfer from the ~~Department~~ Division of Correction to the
11 ~~division~~ Division of Youth Services of the Department of Human Services any
12 inmate less than eighteen (18) years of age who, in the opinion of the
13 ~~Department~~ Division of Correction and the ~~division~~ Division of Youth Services
14 of the Department of Human Services, is more suited and adaptable by age,
15 physical size, and temperament to a program of the Department of Human
16 Services.

17 (2)(A) An inmate transferred to the ~~division~~ Division of Youth
18 Services of the Department of Human Services shall be segregated from the
19 general delinquency population housed at the ~~division~~ Division of Youth
20 Services of the Department of Human Services.

21 (B) If an inmate violates a rule of the ~~division's~~
22 Division of Youth Services of the Department of Human Services' program or
23 facility or is otherwise not amenable to the ~~division's~~ Division of Youth
24 Services of the Department of Human Services' rehabilitative effort, the
25 ~~division~~ Division of Youth Services of the Department of Human Services may
26 return the inmate to the ~~Department~~ Division of Correction.

27 (3) Any inmate transferred to the ~~division~~ Division of Youth
28 Services of the Department of Human Services under this subsection shall be
29 returned to the ~~Department~~ Division of Correction on the inmate's eighteenth
30 birthday.

31
32 SECTION 663. Arkansas Code § 5-4-404 is amended to read as follows:

33 5-4-404. Credit for time spent in custody.

34 If a defendant is held in custody for conduct that results in a
35 sentence to imprisonment or confinement as a condition of suspension or
36 probation, the court, the ~~Department~~ Division of Correction, or the

1 ~~Department~~ Division of Community Correction shall credit the time spent in
2 custody against the sentence, including time spent in a local jail facility
3 awaiting transfer to the ~~Department~~ Division of Correction or the ~~Department~~
4 Division of Community Correction.

5
6 SECTION 664. Arkansas Code § 5-4-501(f), concerning habitual offenders
7 and sentencing for felony, is amended to read as follows:

8 (f) For the purposes of determining whether a defendant has previously
9 been convicted of a serious felony involving violence or a felony involving
10 violence under subsections (c) and (d) of this section, the entry of a plea
11 of guilty or nolo contendere or a finding of guilt by a court to a felony
12 enumerated in subsections (c) and (d) of this section, respectively, as a
13 result of which a court places the defendant on a suspended imposition of
14 sentence, a suspended sentence, or probation, or sentences the defendant to
15 the ~~Department~~ Division of Correction, is considered a previous felony
16 conviction.

17
18 SECTION 665. Arkansas Code § 5-4-606(1), concerning life imprisonment
19 without parole, is amended to read as follows:

20 (1) Be remanded to the custody of the ~~Department~~ Division of
21 Correction for imprisonment for the remainder of his or her life; and

22
23 SECTION 666. Arkansas Code § 5-4-803(b)(2)(A), concerning the
24 procedure for determining the sentence for an eligible offender, is amended
25 to read as follows:

26 (A) ~~Department~~ Division of Correction for an eligible
27 offender committed to the division; or

28
29 SECTION 667. Arkansas Code § 5-4-803(c)(2)(A), concerning the
30 procedure for determining the sentence for an eligible offender, is amended
31 to read as follows:

32 (A) ~~Department~~ Division of Correction for a felony
33 offense; or

34
35 SECTION 668. Arkansas Code § 5-4-803(d)(4)(A), concerning the
36 procedure for determining the sentence for an eligible offender, is amended

1 to read as follows:

2 (A) ~~Department~~ Division of Correction for a felony
3 offense; or

4
5 SECTION 669. Arkansas Code § 5-4-804 is amended to read as follows:

6 5-4-804. Medical treatment and costs.

7 The state is responsible for the cost of medical treatment approved by
8 the ~~Department~~ Division of Correction of an eligible offender sentenced to a
9 felony under this subchapter if the medical treatment is for:

10 (1) The result of an injury sustained on the work site of the
11 community work project or during transportation to and from the work site by
12 a government entity; or

13 (2)(A) The result of illness or an injury sustained by an
14 eligible offender committed to the county jail or regional jail and who is
15 assigned to a community work project.

16 (B) The ~~Department~~ Division of Correction may transfer an
17 eligible offender committed to a county jail or regional jail under this
18 subchapter to a medical facility or treatment facility, including a facility
19 of the ~~Department~~ Division of Correction, it deems appropriate for the
20 medical treatment.

21 (3) Nothing in this section precludes the ~~Department~~ Division of
22 Correction from seeking reimbursement or damages from a person or entity that
23 contributes to or causes the injury or illness referred to in this section.

24
25 SECTION 670. Arkansas Code § 5-4-901 is amended to read as follows:

26 5-4-901. Legislative intent.

27 The intent of this act is to provide the judiciary with an additional
28 alternative to the disposition of criminal offenders that would assist the
29 offender in atoning for his or her criminal transgression and promote the
30 enforcement of the state's criminal statutes while easing the inmate burden
31 on the county jails and the ~~Department~~ Division of Correction.

32
33 SECTION 671. Arkansas Code § 5-10-101(a)(6), concerning capital
34 murder, is amended to read as follows:

35 (6) While incarcerated in the ~~Department~~ Division of Correction
36 or the ~~Department~~ Division of Community Correction, the person purposely

1 causes the death of another person after premeditation and deliberation;

2

3 SECTION 672. Arkansas Code § 5-13-202(a)(4)(A)(ii)(b), concerning
4 battery in the second degree, is amended to read as follows:

5 (b) "Employee of a correctional facility"
6 includes a person working under a professional services contract with the
7 ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
8 Correction, or the Division of Youth Services of the Department of Human
9 Services;

10

11 SECTION 673. Arkansas Code § 5-14-110(a)(3)(A), concerning sexual
12 indecency with a child, is amended to read as follows:

13 (A) Employed with the ~~Department~~ Division of Correction,
14 ~~Department~~ Division of Community Correction, any city or county jail, or any
15 juvenile detention facility, and the minor is in custody at a facility
16 operated by the agency or contractor employing the actor;

17

18 SECTION 674. Arkansas Code § 5-14-110(a)(4)(A) and (B), concerning
19 sexual indecency with a child, are amended to read as follows:

20 (A) Employed with the ~~Department~~ Division of Correction,
21 the ~~Department~~ Division of Community Correction, any city or county jail, or
22 any juvenile detention facility, and the minor is in custody at a facility
23 operated by the agency or contractor employing the actor;

24 (B) Employed by or contracted with the ~~Department~~ Division
25 of Community Correction, a local law enforcement agency, a court, or a local
26 government and the actor is supervising the minor while the minor is on
27 probation or parole or for any other court-ordered reason;

28

29 SECTION 675. Arkansas Code § 5-14-124(a)(1)(A) and (B), concerning
30 sexual assault in the first degree, are amended to read as follows:

31 (A) Employed with the ~~Department~~ Division of Correction,
32 the ~~Department~~ Division of Community Correction, the Department of Human
33 Services, or any city or county jail or a juvenile detention facility, and
34 the victim is in the custody of the ~~Department~~ Division of Correction, the
35 ~~Department~~ Division of Community Correction, the Department of Human
36 Services, any city or county jail or juvenile detention facility, or their

1 contractors or agents;

2 (B) Employed by or contracted with the ~~Department~~ Division
3 of Community Correction, a local law enforcement agency, a court, or a local
4 government and the actor is supervising the minor while the minor is on
5 probation or parole or for any other court-ordered reason;

6
7 SECTION 676. Arkansas Code § 5-14-125(a)(4)(A)(i) and (ii), concerning
8 sexual assault in the second degree, are amended to read as follows:

9 (i) Employed with the ~~Department~~ Division of
10 Correction, the ~~Department~~ Division of Community Correction, any city or
11 county jail, or any juvenile detention facility, and the minor is in custody
12 at a facility operated by the agency or contractor employing the actor;

13 (ii) Employed by or contracted with the ~~Department~~
14 Division of Community Correction, a local law enforcement agency, a court, or
15 a local government and the actor is supervising the minor while the minor is
16 on probation or parole or for any other court-ordered reason;

17
18 SECTION 677. Arkansas Code § 5-14-126(a)(1)(A)-(C), concerning sexual
19 assault in the third degree, are amended to read as follows:

20 (A) Employed with the ~~Department~~ Division of Correction,
21 ~~Department~~ Division of Community Correction, Department of Human Services, or
22 any city or county jail, the victim is in the custody of the ~~Department~~
23 Division of Correction, ~~Department~~ Division of Community Correction,
24 Department of Human Services, or any city or county jail, and the actor is in
25 a position of trust or authority over the victim and uses the position of
26 trust or authority to engage in sexual intercourse or deviate sexual
27 activity;

28 (B) Employed by or contracted with the ~~Department~~ Division
29 of Community Correction, a local law enforcement agency, a court, or a local
30 government and the actor is supervising the person while the person is on
31 probation or parole or for any other court-ordered reason;

32 (C) Employed or contracted with or otherwise providing
33 services, supplies, or supervision to an agency maintaining custody of
34 inmates, detainees, or juveniles, the victim is in the custody of the
35 ~~Department~~ Division of Correction, ~~Department~~ Division of Community
36 Correction, Department of Human Services, or any city or county jail, and the

1 actor is in a position of trust or authority over the victim and uses the
2 position of trust or authority to engage in sexual intercourse or deviate
3 sexual activity; or

4
5 SECTION 678. Arkansas Code § 5-14-127(a)(2), concerning sexual assault
6 in the fourth degree, is amended to read as follows:

7 (2) Engages in sexual contact with another person who is not the
8 actor's spouse, and the actor is employed with the ~~Department~~ Division of
9 Correction, ~~Department~~ Division of Community Correction, Department of Human
10 Services, or any city or county jail, and the victim is in the custody of the
11 ~~Department~~ Division of Correction, ~~Department~~ Division of Community
12 Correction, Department of Human Services, or a city or county jail.

13
14 SECTION 679. Arkansas Code § 5-37-226(b)(2)(D) and (E), concerning
15 filing instruments affecting title or interest in real property, are amended
16 to read as follows:

17 (D) An employee of the ~~Department~~ Division of Correction;
18 (E) An employee of the ~~Department~~ Division of Community
19 Correction;

20
21 SECTION 680. Arkansas Code § 5-54-101(11)(A), concerning the
22 definition of "prohibited article" under the laws governing obstructing
23 governmental operations, is amended to read as follows:

24 (A) An intoxicating beverage other than sacramental wine
25 labeled as sacramental wine and supplied by a religious official who supplies
26 the sacramental wine to an inmate in the ~~Department~~ Division of Correction or
27 ~~Department~~ Division of Community Correction for the sole purpose of an
28 approved religious service, pursuant to rules and regulations promulgated by
29 the Board of Corrections;

30
31 SECTION 681. Arkansas Code § 5-54-110(b)(1)(A) and (B), concerning the
32 offense of first degree escape, are amended to read as follows:

33 (A) The ~~Department~~ Division of Correction;
34 (B) The ~~Department~~ Division of Community Correction; or

35
36 SECTION 682. Arkansas Code § 5-54-111(b)(1)(A) and (B), concerning the

1 offense of second degree escape, are amended to read as follows:

2 (A) The ~~Department~~ Division of Correction;

3 (B) The ~~Department~~ Division of Community Correction; or

4
5 SECTION 683. Arkansas Code § 5-54-112(c)(1)(A) and (B), concerning the
6 offense of second degree escape, are amended to read as follows:

7 (A) The ~~Department~~ Division of Correction;

8 (B) The ~~Department~~ Division of Community Correction; or

9
10 SECTION 684. Arkansas Code § 5-73-119(e)(12)(B)(ii), concerning the
11 possession of a handgun by a minor or possession on school property, is
12 amended to read as follows:

13 (ii) "Parking lot" does not include a parking lot
14 owned, maintained, or otherwise controlled by the ~~Department~~ Division of
15 Correction or ~~Department~~ Division of Community Correction.

16
17 SECTION 685. Arkansas Code § 5-73-122(a)(3)(C)(ii)(b), concerning
18 carrying a firearm in publicly owned buildings or facilities, is amended to
19 read as follows:

20 (b) "Parking lot" does not include a parking
21 lot owned, maintained, or otherwise controlled by the ~~Department~~ Division of
22 Correction or the ~~Department~~ Division of Community Correction;

23
24 SECTION 686. Arkansas Code § 5-73-122(a)(3)(D)(iii), concerning
25 carrying a firearm in publicly owned buildings or facilities, is amended to
26 read as follows:

27 (iii) A facility operated by the ~~Department~~ Division
28 of Correction or the ~~Department~~ Division of Community Correction; or

29
30 SECTION 687. Arkansas Code § 5-73-131(a), concerning the possession or
31 use of a weapon by an incarcerated person, is amended to read as follows:

32 (a) A person commits the offense of possession or use of weapons by
33 incarcerated persons if, without approval of custodial authority he or she
34 uses, possesses, makes, repairs, sells, or otherwise deals in any weapon,
35 including, but not limited to, any bomb, firearm, knife, or other implement
36 for the infliction of serious physical injury or death and that serves no

1 common lawful purpose, while incarcerated in the ~~Department~~ Division of
2 Correction, the ~~Department~~ Division of Community Correction, or a county or
3 municipal jail or detention facility.

4
5 SECTION 688. Arkansas Code § 5-73-306(4), concerning places a licensed
6 concealed handgun is prohibited, is amended to read as follows:

7 (4) Any part of a detention facility, prison, or jail, including
8 without limitation a parking lot owned, maintained, or otherwise controlled
9 by the ~~Department~~ Division of Correction or ~~Department~~ Division of Community
10 Correction;

11
12 SECTION 689. Arkansas Code § 6-18-203(c), concerning attendance in a
13 district other than the district of residence, is amended to read as follows:

14 (c) When any employee of the ~~Department~~ Division of Correction lives
15 on ~~department~~ division property or will live on ~~department~~ division property
16 as the result of a transfer from a unit of the ~~department~~ division to another
17 unit, the children or wards of the employee may complete their education in
18 the school district in which they are enrolled at the time the parent or
19 guardian is transferred.

20
21 SECTION 690. Arkansas Code § 6-82-501(2), concerning the definition of
22 "Department of Community Correction employee" under the laws governing the
23 children of law enforcement officers, is amended to read as follows:

24 (2) "~~Department~~ Division of Community Correction employee" means
25 any employee of the ~~Department~~ Division of Community Correction who suffers
26 fatal injuries or wounds or becomes permanently and totally disabled as a
27 result of injuries or wounds that occurred through contact with parolees,
28 probationers, or center residents;

29
30 SECTION 691. Arkansas Code § 6-82-501(6), concerning the definition of
31 "state correction employee" under the laws governing the children of law
32 enforcement officers, is amended to read as follows:

33 (6) "State correction employee" means any employee of the
34 ~~Department~~ Division of Correction or the Corrections School System who
35 becomes subject to injury through contact with inmates or parolees of the
36 ~~Department~~ Division of Correction;

1
2 SECTION 692. Arkansas Code § 6-82-501(9), concerning the definition of
3 "state parks employee" under the laws governing scholarships to children of
4 law enforcement officers and others, is amended to read as follows:

5 (9) "State parks employee" means any employee of the ~~State Parks~~
6 ~~Division of the~~ Department of Parks, Heritage, and Tourism who is a
7 commissioned law enforcement officer or emergency response employee while
8 actively engaged in the performance of his or her duties; and

9
10 SECTION 693. Arkansas Code § 8-6-307(d), concerning exemptions for the
11 transfer of funds, is amended to read as follows:

12 (d) The ~~Department of Corrections~~ Division of Correction exempt from
13 the provisions of this section.

14
15 SECTION 694. Arkansas Code § 9-2-102 is amended to read as follows:
16 9-2-102. Name change – Use of new name.

17 Any person whose name may be so changed by judgment or decree of any of
18 the circuit courts shall afterward be known and designated, sue and be sued,
19 plead and be impleaded, by the name thus conferred, except that records of
20 persons under the jurisdiction and supervision of the ~~Department~~ Division of
21 Correction shall continue to reflect the name as committed to the
22 ~~department's~~ division's jurisdiction and supervision by the various circuit
23 courts of the State of Arkansas.

24
25 SECTION 695. Arkansas Code § 9-27-303(48)(A)(v)(b)(2) and (3),
26 concerning the definition of "reasonable efforts" under the Arkansas Juvenile
27 Code of 1989, are amended to read as follows:

28 (2) Monitor compliance with services
29 offered by the ~~Department~~ Division of Correction to the extent permitted by
30 federal law; and

31 (3) Offer visitation in accordance with
32 the policies of the ~~Department~~ Division of Correction if visitation is
33 appropriate and in the best interest of the child.

34
35 SECTION 696. Arkansas Code § 9-27-510 is amended to read as follows:
36 9-27-510. ~~Department~~ Division of Correction – Placement.

1 (a)(1) A juvenile who has received an adult sentence to the ~~Department~~
2 Division of Correction shall not be transported to the ~~Department~~ Division of
3 Correction until the juvenile is sixteen (16) years of age.

4 (2) If a juvenile receives a sentence to the ~~Department~~ Division
5 of Correction ~~prior to~~ before the juvenile's sixteenth birthday, the juvenile
6 shall be housed by the Division of Youth Services of the Department of Human
7 Services until that date, except as provided by court order or parole
8 decision made by the Parole Board.

9 (b) A juvenile sentenced in the criminal division of circuit court who
10 is less than sixteen (16) years of age when sentenced shall be committed to
11 the custody of the Division of Youth Services until his or her sixteenth
12 birthday, at which time he or she shall be transferred to the ~~Department~~
13 Division of Correction.

14 (c)(1)(A) Juveniles sentenced to the ~~Department~~ Division of Correction
15 pursuant to extended juvenile jurisdiction are subject to parole as any other
16 inmate within the ~~Department~~ Division of Correction.

17 (B) Juveniles adjudicated for capital murder, § 5-10-101,
18 or murder in the first degree, § 5-10-102, are subject to parole.

19 (2) Juveniles will be given credit for time served in a juvenile
20 detention or juvenile facility against any adult sentence.

21
22 SECTION 697. Arkansas Code § 9-28-214(a), concerning the penalty for
23 escape, is amended to read as follows:

24 (a) If charged and found guilty as an adult for first degree escape, §
25 5-54-110, or second degree escape, § 5-54-111, a juvenile shall be given a
26 mandatory sentence of not less than nine (9) months in an appropriate
27 facility of the ~~Department~~ Division of Correction.

28
29 SECTION 698. The introductory language of Arkansas Code § 12-26-103,
30 concerning the creation and duties of the Office of Criminal Detention
31 Facilities Review Coordinator, is amended to read as follows:

32 (a) There is established the Office of Criminal Detention Facilities
33 Review Coordinator within the Department of Corrections which shall consist
34 of:

35
36 SECTION 699. Arkansas Code § 11-3-401(a)(2), concerning the prevention

1 of lawful employment prohibited, is amended to read as follows:

2 (2) Any person guilty of violating this subsection shall be
3 deemed guilty of a felony and upon conviction shall be punished by
4 confinement in the Department of ~~Correction~~ Corrections for not less than one
5 (1) year nor more than two (2) years.

6
7 SECTION 700. Arkansas Code § 11-3-401(b)(3), concerning the prevention
8 of lawful employment prohibited, is amended to read as follows:

9 (3) Any person guilty of violating this subsection shall be
10 deemed guilty of a felony and upon conviction thereof shall be punished by
11 confinement in the Department of ~~Correction~~ Corrections for not less than one
12 (1) year nor more than two (2) years.

13
14 SECTION 701. Arkansas Code § 11-9-110(a), resulting from Initiated Act
15 4 of 1948 and concerning compensation nonassignable and payable to
16 dependents, is amended to read as follows:

17 (a) The right to compensation shall not be assignable and shall not be
18 subject to garnishment, attachment, levy, execution, or any other legal
19 process, except for child support obligations and moneys retained by the
20 ~~Department~~ Division of Correction under § 12-30-406(a)(1).

21
22 SECTION 702. Arkansas Code § 11-9-812(a)(1), concerning the
23 incarceration of an injured employee, is amended to read as follows:

24 (a)(1) When any person who receives workers' compensation benefits is
25 incarcerated in an institution under the control of the ~~Department~~ Division
26 of Correction, the inmate's spouse or, if no spouse, the inmate's minor
27 dependent children, may petition the Workers' Compensation Commission to
28 award to the spouse or minor dependent children the inmate's workers'
29 compensation weekly disability benefits for the period of the claimant's
30 incarceration.

31
32 SECTION 703. Arkansas Code § 11-14-106(a)(3)(A)(v), concerning
33 required drug or alcohol tests, is amended to read as follows:

34 (v) Work in direct contact with inmates in the
35 custody of the ~~Department~~ Division of Correction; or

36

1 SECTION 704. Arkansas Code § 12-1-102 is amended to read as follows:
2 12-1-102. Records to be posted on a public website.

3 (a) Relevant research studies and reports concerning the following
4 topics that are generated by the research divisions of the ~~Department~~
5 Division of Correction, the ~~Department~~ Division of Community Correction, and
6 the Parole Board or by third-party contractors on behalf of the ~~Department~~
7 Division of Correction, the ~~Department~~ Division of Community Correction, and
8 the board, when applicable, shall be posted on the ~~Department~~ Division of
9 Correction's, the ~~Department~~ Division of Community Correction's, or board's
10 website:

- 11 (1) Population projections;
12 (2) Recidivism; and
13 (3) Evaluation of the cost-benefit of evidence-based practices

14 of:

- 15 (A) Adult prisons;
16 (B) Community corrections facilities;
17 (C) Probation; and
18 (D) Parole.

19 (b) Data posted on the board's, ~~Department~~ Division of Correction's,
20 or the ~~Department~~ Division of Community Correction's websites under this
21 section may be removed from the board's, ~~Department~~ Division of Correction's,
22 or the ~~Department~~ Division of Community Correction's websites after five (5)
23 years.

24
25 SECTION 705. Arkansas Code § 12-12-315(a)(1)(E), concerning the
26 notification of certain deaths, is amended to read as follows:

27 (E) The death occurs while the person is in a state mental
28 institution or hospital and there is no previous medical history to explain
29 the death, or while the person is in police custody or jail other than a jail
30 operated by the ~~Department~~ Division of Correction;

31
32 SECTION 706. Arkansas Code § 12-12-315(b), concerning notification of
33 deaths, is amended to read as follows:

34 (b) With regard to any death in a correctional facility, the county
35 coroner and the State Medical Examiner shall be notified, and when previous
36 medical history does not exist to explain the death, the ~~Department~~ Division

1 of Arkansas State Police shall be notified.

2
3 SECTION 707. Arkansas Code § 12-12-904(a)(1)(B)(ii), concerning the
4 failure to comply with registration and reporting requirements and refusal to
5 cooperate with the assessment process, is amended to read as follows:

6 (ii) If a sex offender fails or refuses to provide
7 any information necessary to update his or her registration file as required
8 by § 12-12-906(b)(2), as soon as administratively feasible the ~~Department~~
9 Division of Correction, the ~~Department~~ Division of Community Correction, the
10 Arkansas State Hospital, or the Department of Human Services shall contact
11 the local law enforcement agency having jurisdiction to report the violation
12 of subdivision (a)(1)(B)(i) of this section.

13
14 SECTION 708. Arkansas Code § 12-12-906(a)(1)(B) and (C), concerning
15 the duty to register or verify registration and review of requirements with
16 offenders, is amended to read as follows:

17 (B)(i) The ~~Department~~ Division of Correction shall ensure
18 that a sex offender received for incarceration has completed the sex offender
19 registration form.

20 (ii) If the ~~Department~~ Division of Correction cannot
21 confirm that the sex offender has completed the sex offender registration
22 form, the ~~Department~~ Division of Correction shall require the sex offender to
23 complete the sex offender registration form upon intake, release, or
24 discharge.

25 (C)(i) The ~~Department~~ Division of Community Correction
26 shall ensure that a sex offender placed on probation or another form of
27 community supervision has completed the sex offender registration form.

28 (ii) If the ~~Department~~ Division of Community
29 Correction cannot confirm that the sex offender has completed the sex
30 offender registration form, the ~~Department~~ Division of Community Correction
31 shall require the sex offender to complete the sex offender registration form
32 upon intake, release, or discharge.

33
34 SECTION 709. Arkansas Code § 12-12-906(b)(2), concerning the duty to
35 register or verify registration and review of requirements with offenders, is
36 amended to read as follows:

1 (2) Immediately prior to the release or discharge of a sex
2 offender or immediately following a sex offender's escape or his or her
3 absconding from supervision, the ~~Department~~ Division of Correction, the
4 ~~Department~~ Division of Community Correction, the Arkansas State Hospital, or
5 the Department of Human Services shall update the registration file of the
6 sex offender who is to be released or discharged or who has escaped or has
7 absconded from supervision.

8
9 SECTION 710. Arkansas Code § 12-12-906(c)(1)(A), concerning the duty
10 to register or verify registration and review of requirements with offenders,
11 is amended to read as follows:

12 (c)(1)(A) When registering a sex offender as provided in subsection
13 (a) of this section, the sentencing court, the ~~Department~~ Division of
14 Correction, the ~~Department~~ Division of Community Correction, the Arkansas
15 State Hospital, the Department of Human Services, or the local law
16 enforcement agency having jurisdiction shall:

17 (i) Inform the sex offender of the duty to submit to
18 assessment and to register and obtain the information required for
19 registration as described in § 12-12-908;

20 (ii) Inform the sex offender that if the sex
21 offender changes residency within the state, the sex offender shall give the
22 new address and place of employment, education, higher education, or training
23 to the center in writing no later than ten (10) days before the sex offender
24 establishes residency or is temporarily domiciled at the new address;

25 (iii)(a) Inform the sex offender that if the sex
26 offender changes residency to another state or enters another state to work
27 or attend school, the sex offender must also register in that state
28 regardless of permanent residency.

29 (b) The sex offender shall register the new
30 address and place of employment, education, higher education, or training
31 with the center and with a designated law enforcement agency in the new state
32 in person not later than three (3) business days after the sex offender
33 establishes residence or is temporarily domiciled in the new state;

34 (iv) Obtain fingerprints, palm prints, and a
35 photograph of the sex offender if these have not already been obtained in
36 connection with the offense that triggered registration;

1 (v) Obtain a deoxyribonucleic acid (DNA) sample if
2 one has not already been provided;

3 (vi) Require the sex offender to complete the entire
4 registration process, including, but not limited to, requiring the sex
5 offender to read and sign a form stating that the duty of the sex offender to
6 register under this subchapter has been explained;

7 (vii) Inform the sex offender that if the sex
8 offender's address changes within the state or to another state due to an
9 eviction, natural disaster, or any other unforeseen circumstance, the sex
10 offender shall give the new address to the local law enforcement agency
11 having jurisdiction in person no later than three (3) business days after the
12 sex offender establishes residency;

13 (viii) Inform a sex offender who has been granted
14 probation that failure to comply with the provisions of this subchapter may
15 be grounds for revocation of the sex offender's probation; and

16 (ix) Inform a sex offender subject to lifetime
17 registration under § 12-12-919 of the duty to:

18 (a) Verify registration and obtain the
19 information required for registration verification as described in
20 subsections (g) and (h) of this section; and

21 (b) Ensure that the information required for
22 reregistration verification under subsections (g) and (h) of this section is
23 provided to the local law enforcement agency having jurisdiction.
24

25 SECTION 711. Arkansas Code § 12-12-906(c)(2), concerning the duty to
26 register or verify registration and review of requirements with offenders, is
27 amended to read as follows:

28 (2) When updating the registration file of a sex offender, the
29 ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
30 Correction, the Arkansas State Hospital, or the Department of Human Services
31 shall:

32 (A) Review with the sex offender the duty to register and
33 obtain current information required for registration as described in § 12-12-
34 908;

35 (B) Review with the sex offender the requirement that if
36 the sex offender changes address within the state, the sex offender shall

1 give the new address to the local law enforcement agency having jurisdiction
2 in person no later than ten (10) days before the sex offender establishes
3 residency or is temporarily domiciled at the new address;

4 (C) Review with the sex offender the requirement that if
5 the sex offender changes address to another state, the sex offender shall
6 register the new address with the local law enforcement agency having
7 jurisdiction in person and with a designated law enforcement agency in the
8 new state in person not later than three (3) business days after the sex
9 offender establishes residence or is temporarily domiciled in the new state
10 if the new state has a registration requirement;

11 (D) Require the sex offender to read and sign a form
12 stating that the duty of the sex offender to register under this subchapter
13 has been reviewed;

14 (E) Inform the sex offender that if the sex offender's
15 address changes within the state or to another state due to an eviction,
16 natural disaster, or any other unforeseen circumstance, the sex offender
17 shall give the new address to the local law enforcement agency having
18 jurisdiction in person no later than three (3) business days after the sex
19 offender establishes residency;

20 (F) Review with the sex offender the consequences of
21 failure to provide any information required by subdivision (b)(2) of this
22 section;

23 (G) Inform a sex offender subject to lifetime registration
24 under § 12-12-919 of the duty to:

25 (i) Verify registration and report the information
26 required for registration verification as described in subsections (g) and
27 (h) of this section; and

28 (ii) Ensure that the information required for
29 registration verification under subsections (g) and (h) of this section is
30 provided in person to the local law enforcement agency having jurisdiction;
31 and

32 (H) Review with a sex offender subject to lifetime
33 registration under § 12-12-919 the consequences of failure to verify
34 registration under § 12-12-904.

35
36 SECTION 712. Arkansas Code § 12-12-906(d), concerning the duty to

1 register or verify registration and review of requirements with offenders, is
2 amended to read as follows:

3 (d) When registering or updating the registration file of a sexually
4 dangerous person, in addition to the requirements of subdivision (c)(1) or
5 subdivision (c)(2) of this section, the sentencing court, the ~~Department~~
6 Division of Correction, the ~~Department~~ Division of Community Correction, the
7 Arkansas State Hospital, the Department of Human Services, or the local law
8 enforcement agency having jurisdiction shall obtain documentation of any
9 treatment received for the mental abnormality or personality disorder of the
10 sexually dangerous person.

11

12 SECTION 713. Arkansas Code § 12-12-906(g)(3)(M)(ii)(b), concerning the
13 duty to register or verify registration and review of requirements with
14 offenders, is amended to read as follows:

15 (b) Submit the fingerprints to the center and
16 to the ~~Department~~ Division of Arkansas State Police.

17

18 SECTION 714. Arkansas Code § 12-12-906(g)(3)(M)(iii)(b), concerning
19 the duty to register or verify registration and review of requirements with
20 offenders, is amended to read as follows:

21 (b) Submit the palm prints to the center and
22 to the ~~Department~~ Division of Arkansas State Police;

23

24 SECTION 715. Arkansas Code § 12-12-906(h)(3)(M)(ii)(b), concerning the
25 duty to register or verify registration and review of requirements with
26 offenders, is amended to read as follows:

27 (b) Submit the fingerprints to the center and
28 to the ~~Department~~ Division of Arkansas State Police.

29

30 SECTION 716. Arkansas Code § 12-12-906(h)(3)(M)(iii)(b), concerning
31 the duty to register or verify registration and review of requirements with
32 offenders, is amended to read as follows:

33 (b) Submit the palm prints to the center and
34 to the ~~Department~~ Division of Arkansas State Police;

35

36 SECTION 717. Arkansas Code § 12-12-907(a)(1), concerning reports to

1 the Arkansas Crime Information Center and law enforcement agencies, is
2 amended to read as follows:

3 (a)(1) Within three (3) days after registering or updating the
4 registration file of a sex offender, the ~~Department~~ Division of Correction,
5 the ~~Department~~ Division of Community Correction, the Department of Human
6 Services, the sentencing court, or the local law enforcement agency having
7 jurisdiction shall report, by written or electronic means, all information
8 obtained from the sex offender and regarding the sex offender to the Arkansas
9 Crime Information Center.

10

11 SECTION 718. Arkansas Code § 12-12-907(b)(4), concerning reports to
12 the Arkansas Crime Information Center and law enforcement agency, is amended
13 to read as follows:

14 (4) The center shall have access to the offender tracking
15 systems of the ~~Department~~ Division of Correction and the ~~Department~~ Division
16 of Community Correction to confirm the location of registrants.

17

18 SECTION 719. Arkansas Code § 12-12-908(a), concerning registration
19 format requirements is amended to read as follows:

20 (a) The Director of the Arkansas Crime Information Center shall
21 prepare the format for registration as required in subsection (b) of this
22 section and shall provide instructions for registration to each organized
23 full-time municipal police division, county sheriff's office, the ~~Department~~
24 Division of Correction, the ~~Department~~ Division of Community Correction, the
25 Department of Human Services, and the Administrative Office of the Courts.

26

27 SECTION 720. Arkansas Code § 12-12-911(b)(1), concerning the sex and
28 child offenders registration fund, is amended to read as follows:

29 (b)(1) This fund shall consist of special revenues collected pursuant
30 to § 12-12-910, there to be used equally by the Arkansas Crime Information
31 Center and the ~~Department~~ Division of Correction for the administration of
32 this subchapter.

33

34 SECTION 721. Arkansas Code § 12-12-913(d)(3), concerning the
35 disclosure of registration records, is amended to read as follows:

36 (3) In conjunction with the notice provided under § 12-12-914,

1 the ~~Department~~ Division of Correction and the Department of Human Services
2 shall make available to a local law enforcement agency having jurisdiction
3 all information that the ~~Department~~ Division of Correction and the Department
4 of Human Services have concerning the sex offender, including information on
5 risk factors in the sex offender's history.

6
7 SECTION 722. Arkansas Code § 12-12-914(a)(1), concerning the notice of
8 release to the Arkansas Crime Information Center, is amended to read as
9 follows:

10 (a)(1) The ~~Department~~ Division of Correction shall provide notice by
11 written or electronic means to the Arkansas Crime Information Center of the
12 anticipated release from incarceration in a county or state penal institution
13 of a person serving a sentence for a sex offense.

14
15 SECTION 723. Arkansas Code § 12-12-914(d)(2), concerning the notice of
16 release to the Arkansas Crime Information Center, is amended to read as
17 follows:

18 (2) If notification cannot be made throughout the system
19 established under § 12-12-1201 et seq., the ~~Department~~ Division of Correction
20 shall provide the notification to the victim.

21
22 SECTION 724. Arkansas Code § 12-12-915 is amended to read as follows:
23 12-12-915. Authority – Rules.

24 (a) The ~~Department~~ Division of Correction, the ~~Department~~ Division of
25 Community Correction, the Department of Human Services, the Administrative
26 Office of the Courts, and the Arkansas Crime Information Center shall
27 promulgate rules to establish procedures for:

28 (1) Notifying the sex offender of the obligation to register
29 pursuant to this subchapter; and

30 (2) Registering the sex offender.

31 (b)(1) The ~~Department~~ Division of Community Correction shall monitor
32 an adult sex offender under its supervisory authority who is subject to
33 electronic monitoring under § 12-12-923.

34 (2) The Department of Human Services shall monitor an adult or
35 juvenile sex offender under its supervisory authority who is subject to
36 electronic monitoring under § 12-12-923.

1 (c)(1) The ~~Department~~ Division of Community Correction shall
2 promulgate rules to establish procedures for monitoring an adult sex offender
3 under its supervisory authority who is subject to electronic monitoring under
4 § 12-12-923.

5 (2) The Department of Human Services shall promulgate rules to
6 establish procedures for monitoring an adult or juvenile sex offender under
7 its supervisory authority who is subject to electronic monitoring under § 12-
8 12-923.

9
10 SECTION 725. Arkansas Code § 12-12-917(b)(2)(A)(ii)(a), concerning the
11 evaluation protocol for sexually dangerous persons and juveniles adjudicated
12 delinquent, is amended to read as follows:

13 (ii)(a) Subject to subdivision (c)(1) of this
14 section, the prosecuting attorney and any law enforcement agency shall
15 furnish the file relating to the offender to Community Notification
16 Assessment at the ~~Department~~ Division of Correction within thirty (30) days
17 of an offender's adjudication of guilt.

18
19 SECTION 726. Arkansas Code § 12-12-917(f)(2) and (3), concerning the
20 evaluation protocol for sexually dangerous persons and juveniles adjudicated
21 delinquent, are amended to read as follows:

22 (2) The committee shall provide the Parole Board with copies of
23 the offender fact sheet on inmates of the ~~Department~~ Division of Correction.

24 (3) The committee shall provide the ~~Department~~ Division of
25 Community Correction with copies of the offender fact sheet on any sex
26 offender under the ~~Department~~ Division of Community Correction's supervision.

27
28 SECTION 727. Arkansas Code § 12-12-917(g)(1), concerning the
29 evaluation protocol for sexually dangerous persons and juveniles adjudicated
30 delinquent, is amended to read as follows:

31 (g)(1) In cooperation with the committee, the ~~Department~~ Division of
32 Correction shall promulgate rules and regulations to establish the review
33 process for assessment determinations.

34
35 SECTION 728. Arkansas Code § 12-12-917(h)(2), concerning the
36 evaluation protocol for sexually dangerous persons and juveniles adjudicated

1 delinquent, is amended to read as follows:

2 (2)(A) A local law enforcement agency having jurisdiction, the
3 ~~Department~~ Division of Community Correction, or the Parole Board may request
4 the committee to reassess a sex offender's assigned risk level at any time.

5 (B) In the request for reassessment, the local law
6 enforcement agency having jurisdiction, the ~~Department~~ Division of Community
7 Correction, or the Parole Board shall list the facts and circumstances that
8 prompted the requested reassessment.

9

10 SECTION 729. Arkansas Code § 12-12-918(b)(1)(A), concerning
11 classification as a sexually dangerous person, is amended to read as follows:

12 (A) The defendant may be sent for evaluation to a facility
13 designated by the ~~Department~~ Division of Correction; or

14

15 SECTION 730. Arkansas Code § 12-12-918(b)(2), concerning
16 classification as a sexually dangerous person, is amended to read as follows:

17 (2) The cost of the evaluation shall be paid by the ~~Department~~
18 Division of Correction.

19

20 SECTION 731. Arkansas Code § 12-12-1109(c), concerning a DNA sample
21 required upon adjudication of guilt, is amended to read as follows:

22 (c) All DNA samples taken pursuant to this section shall be taken in
23 accordance with regulations promulgated by the State Crime Laboratory in
24 consultation with the ~~Department~~ Division of Correction, the ~~Department~~
25 Division of Community Correction, the Department of Human Services, and the
26 Administrative Office of the Courts.

27

28 SECTION 732. Arkansas Code § 12-12-1110(e)(1), concerning procedures
29 of withdrawal, collection, and transmission of DNA samples, is amended to
30 read as follows:

31 (e)(1) Any person who refuses to provide a DNA sample required by this
32 subchapter will receive no further sentence reduction for meritorious good
33 time until such time as a sample is provided, and the ~~Department~~ Division of
34 Correction shall notify the Parole Board regarding the refusal.

35

36 SECTION 733. Arkansas Code § 12-27-101 is amended to read as follows:

1 12-27-101. Purposes and construction of the ~~Department~~ Division of
2 Correction.

3 (a)(1) The purpose of this act is to establish a ~~Department~~ Division
4 of Correction that shall assume the custody, control, and management of the
5 state penitentiary, execute the orders of criminal courts of the State of
6 Arkansas, and provide for the custody, treatment, rehabilitation, and
7 restoration of adult offenders as useful law-abiding citizens within the
8 community.

9 (2) The ~~department~~ division shall be under the supervision and
10 control of the Board of Corrections.

11 (3) To accomplish the objectives and purposes of this act in an
12 effective, coordinated, and uniform manner, the ~~department~~ division shall be
13 responsible for the maintenance, supervision, and administration of adult
14 detention and correctional services of the state as determined by the board.

15 (4) Institutions and services shall be diversified in program,
16 construction, and staff to provide effectually and efficiently for the
17 maximum custody, care, supervision, and treatment of those persons committed
18 to the ~~department~~ division.

19 (b) This act shall be liberally construed so as to effectuate its
20 purposes.

21
22 SECTION 734. Arkansas Code § 12-27-102 is amended to read as follows:

23 12-27-102. Enforcement of penalties – Report of crimes.

24 (a) All laws of this state prescribing penalties for violations
25 concerned with or affecting the state penitentiary or inmates thereof shall
26 be equally applicable to the ~~Department~~ Division of Correction and shall be
27 enforced accordingly.

28 (b) In the event any crime shall be committed in any institution of
29 the ~~department~~ division, it shall be the duty of the Director of the
30 ~~Department~~ Division of Correction, or his or her designated employee, to
31 report the crime to the county sheriff and prosecuting attorney of the county
32 in which the institution is located in which the crime, or alleged crime,
33 took place.

34
35 SECTION 735. Arkansas Code § 12-27-103 is amended to read as follows:

36 12-27-103. ~~Department~~ Division of Correction – Creation – Powers and

1 duties.

2 (a) There is established, under the supervision, control, and
3 direction of the Board of Corrections, a ~~Department~~ Division of Correction.

4 (b) The ~~Department~~ Division of Correction shall have the following
5 functions, powers, and duties, administered in accordance with the policies,
6 rules, and regulations promulgated by the Board of Corrections:

7 (1) The ~~Department~~ Division of Correction shall have exclusive
8 jurisdiction over the care, charge, custody, control, management,
9 administration, and supervision of all persons and offenders committed to, or
10 in the custody of, the state penitentiary;

11 (2) The ~~Department~~ Division of Correction shall ~~assume~~ maintain
12 management and control over all properties, both real and personal,
13 facilities, books, records, equipment, supplies, materials, contracts, funds,
14 moneys, equities, and all other properties belonging to the state
15 penitentiary, except those deemed by the Board of Corrections to be ~~more~~
16 ~~appropriate for placement~~ placed in the ~~Department~~ Division of Community
17 Correction. The ~~Department~~ Division of Correction shall administer said
18 properties in accordance with the provisions of this act and other laws
19 applicable to the administration of the state correctional system;

20 (3) The Department of Correction, as the Division of Correction
21 was known as prior to July 1, 2019, ~~shall assume~~ assumed all obligations,
22 contracts, indebtedness, liabilities, and other obligations of the state
23 penitentiary system existing on March 1, 1968;

24 (4)(A) The Department of Correction, as the Division of
25 Correction was known as prior to July 1, 2019, ~~shall have~~ has custody,
26 management, and control over all institutions and facilities, and the inmates
27 therein, ~~now~~ belonging to the state penitentiary or hereafter established by
28 the Department of Correction, as the Division of Correction was known as
29 prior to July 1, 2019, and known as the Division of Correction for the
30 custodial correction and rehabilitation of persons committed to the
31 ~~Department~~ Division of Correction for its care, except for those institutions
32 established by or transferred to the ~~Department~~ Division of Community
33 Correction.

34 (B) Legal custody of inmates transferred to the ~~Department~~
35 Division of Community Correction shall remain with the ~~Department~~ Division of
36 Correction unless altered by court order;

1 (5) The ~~Department~~ Division of Correction shall establish and
2 operate classification committees, diagnosis and treatment programs, and such
3 other programs as may be desirable to fulfill the purposes of this act;

4 (6) The ~~Department~~ Division of Correction shall employ such
5 officers, employees, and agents and shall secure such offices and quarters as
6 are deemed necessary to discharge the functions of the ~~Department~~ Division of
7 Correction;

8 (7) The ~~Department~~ Division of Correction shall receive all
9 offenders committed to the ~~Department~~ Division of Correction for conviction
10 of felonies or other offenses, the punishment of which is commitment to the
11 penitentiary under the laws of this state, and shall be responsible for the
12 care, custody, and correction of such persons pursuant to policies
13 established by the Board of Corrections;

14 (8) The ~~Department~~ Division of Correction shall operate all
15 farming, livestock, industries, and other income-producing facilities of the
16 ~~Department~~ Division of Correction and shall sell the products of its
17 industries and farms in the manner provided by law;

18 (9) The ~~Department~~ Division of Correction may establish and
19 operate regional adult detention facilities, provided funds therefor have
20 been authorized and appropriated by the General Assembly;

21 (10) The ~~Department~~ Division of Correction shall cooperate with
22 municipalities and counties in this state in providing consulting services
23 when requested with respect to detention and correctional facilities operated
24 by the municipalities or counties;

25 (11) The ~~Department~~ Division of Correction shall cooperate with
26 law enforcement agencies of this state, the United States, institutions of
27 this state for the detention, custody, and care of delinquent and dependent
28 juveniles, and with all agencies and departments of this state offering
29 services or programs of welfare, rehabilitation, and other services for the
30 benefit of persons committed to the ~~Department~~ Division of Correction;

31 (12) The ~~Department~~ Division of Correction may accept gifts,
32 grants, and funds from public and private sources with prior approval of the
33 Board of Corrections and administer the same in furtherance of the purposes
34 of this act;

35 (13)(A) The ~~Department~~ Division of Correction shall have the
36 authority to issue warrants for the retaking of any person who, committed to

1 its custody, unlawfully escapes therefrom.

2 (B) The warrant shall:

3 (i) Authorize all law enforcement officials of this
4 state to take custody and return the person named therein to the custody of
5 the ~~Department~~ Division of Correction; and

6 (ii) Authorize all law enforcement officials of this
7 state, any other state, and the federal government to take custody and detain
8 the person in any suitable detention facility while awaiting further transfer
9 to the ~~Department~~ Division of Correction;

10 (14)(A)(i) Subject to the approval of the Governor, the
11 ~~Department~~ Division of Correction may cooperate with and contract with the
12 federal government, governmental agencies of Arkansas and other states,
13 political subdivisions of Arkansas, political subdivisions of other states,
14 counties, regional correctional facilities, and private contractors to
15 provide and improve correctional operations and to keep custody of inmates
16 transferred from the ~~Department~~ Division of Correction.

17 (ii) A facility owned or leased under this
18 subdivision (b)(14) shall comply with all constitutional standards of the
19 United States and the State of Arkansas.

20 (B) A county may contract for construction or operation or
21 both with another entity to house a ~~Department~~ Division of Correction inmate
22 under this subdivision (b)(14) for a period not to exceed twenty (20) years;

23 (15) The ~~Department~~ Division of Correction shall cooperate with
24 the ~~Department~~ Division of Community Correction, the Parole Board, the
25 Arkansas Sentencing Commission, judicial districts, municipalities, and
26 counties in this state in providing guidance and services required to ensure
27 a full range of correctional options for the state as a whole;

28 (16) The ~~Department~~ Division of Correction shall provide support
29 to the ~~Department~~ Division of Community Correction as determined by the Board
30 of Corrections;

31 (17) The ~~Department~~ Division of Correction shall assist the
32 Board of Corrections in the furtherance of its goals by staffing the specific
33 charges articulated for it through legislation and by the Board of
34 Corrections; and

35 (18) The Department of ~~Correction~~ Corrections shall establish
36 programs of research, evaluation, statistics, audit, and planning, including

1 studies and evaluation of the performance of various functions and activities
2 of the department and studies affecting the treatment of offenders and
3 information about other programs.

4
5 SECTION 736. Arkansas Code § 12-27-104(d)(1)(B), concerning the
6 members, records, and staff of the Board of Corrections, is amended to read
7 as follows:

8 (B) However, a member shall receive a per diem stipend and
9 reimbursement for expenses for both official meetings and related activities
10 associated with attending to the business of the Board of Corrections, the
11 ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
12 Correction, and the Corrections School System for up to an annual average of
13 seven (7) days per month.

14
15 SECTION 737. Arkansas Code § 12-27-104(d)(2), concerning the members,
16 records, and staff of the Board of Corrections, is amended to read as
17 follows:

18 (2) All expenses that may be reimbursed to members of the Board
19 of Corrections and stipends as provided in § 25-16-901 et seq. shall be
20 payable from the maintenance funds appropriated for the ~~Department~~ Division
21 of Correction and the ~~Department~~ Division of Community Correction.

22
23 SECTION 738. Arkansas Code § 12-27-104(e), concerning the members,
24 records, and staff of the Board of Corrections, is amended to read as
25 follows:

26 (e) The Governor shall appoint an advisory judicial group to
27 facilitate coordination among the judicial system, the ~~Department~~ Division of
28 Correction, and the ~~Department~~ Division of Community Correction to promote
29 the effective and efficient use of correctional resources in furtherance of
30 sentencing policy adopted by the General Assembly.

31
32 SECTION 739. Arkansas Code § 12-27-104(j), concerning the members,
33 records, and staff of the Board of Corrections, is amended to read as
34 follows:

35 (j)(1) The Board of Corrections shall employ necessary staff to assist
36 with the range and diversity of ~~its~~ the charge of the Board of Corrections.

1 (2) In addition to Board of Corrections staff, the Board of
2 Corrections may reassign staff from the ~~departments~~ divisions it governs for
3 either short-term or long-term service to the Board of Corrections.
4

5 SECTION 740. Arkansas Code § 12-27-105(b)(1)(A), concerning the powers
6 and duties of the Board of Corrections, is amended to read as follows:

7 (1)(A) General supervisory power and control over the ~~Department~~
8 Division of Correction and the ~~Department~~ Division of Community Correction
9 and shall perform all functions with respect to the management and control of
10 the adult correctional institutions and community correction options of this
11 state contemplated by Arkansas Constitution, Amendment 33.
12

13 SECTION 741. Arkansas Code § 12-27-105(b)(3) and (4), concerning the
14 powers and duties of the Board of Corrections, are amended to read as
15 follows:

16 (3) To review and approve budgets submitted by the ~~Department~~
17 Division of Correction and the ~~Department~~ Division of Community Correction
18 prior to submission for executive and legislative approval;

19 (4) To develop and approve policy and management decisions for
20 the ~~Department~~ Division of Correction and the ~~Department~~ Division of
21 Community Correction, evaluating their impact on corrections as a whole;
22

23 SECTION 742. Arkansas Code § 12-27-105(b)(15), concerning the powers
24 and duties of the Board of Corrections, is amended to read as follows:

25 (15) To prescribe the duties of all personnel of the ~~Department~~
26 Division of Correction and the ~~Department~~ Division of Community Correction
27 and the regulations governing the transfer of employees within each
28 ~~department~~ division and between ~~departments~~ divisions;
29

30 SECTION 743. Arkansas Code § 12-27-105(b)(17)(E), concerning the
31 powers and duties of the Board of Corrections, is amended to read as follows:

32 (E) Economic sanction officers are to be authorized by the
33 ~~Department~~ Division of Community Correction to perform these duties pursuant
34 to policies and procedures adopted by the Board of Corrections and in accord
35 with any state statutory accounting requirements; and
36

1 SECTION 744. Arkansas Code § 12-27-107 is amended to read as follows:

2 12-27-107. Director of the ~~Department~~ Division of Correction.

3 (a) The Director of the ~~Department~~ Division of Correction, who shall
4 be the executive, administrative, budgetary, and fiscal officer of the
5 ~~Department~~ Division of Correction, shall be appointed by the Board of
6 Corrections at a salary fixed by the Board of Corrections which shall not
7 exceed the maximum salary for the position established by law.

8 (b) The director shall be qualified for the position by character,
9 ability, education, training, and successful administrative experience in
10 correctional or related fields.

11 (c) The director shall serve at the pleasure of the Board of
12 Corrections.

13 (d) Subject to the rules, regulations, policies, and procedures
14 prescribed by the Board of Corrections, the director shall:

15 (1) Administer the ~~Department~~ Division of Correction and
16 supervise the administration of all institutions, facilities, and services
17 under the jurisdiction of the ~~Department~~ Division of Correction;

18 (2) Employ such personnel as are required in the administration
19 of the provisions of this act, provided that the employment of personnel
20 shall be in accordance with the applicable laws and personnel regulations of
21 the state;

22 (3) Institute programs for the training and development of
23 personnel within the ~~Department~~ Division of Correction and have authority to
24 suspend, discharge, or otherwise discipline personnel in accordance with
25 policies prescribed by the Board of Corrections;

26 (4) Make an annual report to the Board of Corrections, which
27 will be forwarded to the Governor and the General Assembly, on the work of
28 the ~~Department~~ Division of Correction, including statistics and other data,
29 income derived by the ~~Department~~ Division of Correction from agriculture,
30 livestock, and other farming activities and from prison inmates' activities,
31 a summary of expenditures of the ~~Department~~ Division of Correction, and
32 progress reports regarding internal issues such as inmate discipline,
33 utilization of programming, facilities and bed space utilization, upkeep
34 issues, and construction needs;

35 (5) Cooperate with the ~~Department~~ Division of Community
36 Correction, the Parole Board, the Arkansas Sentencing Commission, judicial

1 districts, counties, and municipalities to provide the guidance and services
2 required to ensure a full range of correctional options for the state as a
3 whole; and

4 (6)(A) Designate those employees of the ~~Department~~ Division of
5 Correction who shall have the powers of peace officers in the enforcement of
6 criminal laws to the extent they apply to employees, inmates, and persons on
7 ~~Department~~ Division of Correction property, while participating in the search
8 and capture of an inmate who has escaped custody, or while assisting law
9 enforcement officers in the search and capture of any fugitive or escapee
10 from another jurisdiction.

11 (B) The employees so designated have the authority to use
12 blue rotating or flashing emergency lights on ~~Department~~ Division of
13 Correction vehicles and exercise other law enforcement powers exercised by
14 police and other law enforcement personnel.

15
16 SECTION 745. Arkansas Code § 12-27-108 is amended to read as follows:
17 12-27-108. Authentication of records.

18 (a) For authentication of the records, process, and proceedings of the
19 ~~Department~~ Division of Correction, the Director of the ~~Department~~ Division of
20 Correction may adopt and keep an official seal for the use of his or her
21 office, and the seal shall receive judicial notice in all of the courts of
22 the state.

23 (b) All acts, orders, regulations, reports, and other records of the
24 ~~department~~ division or copies thereof which are entitled to judicial notice
25 shall be certified to by the director with the seal affixed thereto.

26
27 SECTION 746. Arkansas Code § 12-27-109 is amended to read as follows:
28 12-27-109. Oaths of director and superintendents.

29 The Director of the ~~Department~~ Division of Correction and each of the
30 superintendents of the institutions within the ~~Department~~ Division of
31 Correction shall, before entering upon their respective duties, take and
32 subscribe to and file in the office of the Secretary of State, an oath that
33 he or she will support the United States Constitution and the Arkansas
34 Constitution and faithfully perform the duties upon which he or she is about
35 to enter.

36

1 SECTION 747. Arkansas Code § 12-27-124 is amended to read as follows:
2 12-27-124. Purposes and construction of the ~~Department~~ Division of
3 Community Correction.

4 (a)(1) The purpose of this act is to establish a ~~Department~~ Division
5 of Community Correction that shall assume the management of all community
6 correction facilities and services, execute the orders of the criminal courts
7 of the State of Arkansas, and provide for the supervision, treatment,
8 rehabilitation, and restoration of adult offenders as useful law-abiding
9 citizens within the community.

10 (2) The ~~department~~ division shall be under the supervision and
11 control of the Board of Corrections.

12 (3) To accomplish the objectives and purposes of this act in an
13 effective, coordinated, and uniform manner, the ~~department~~ division shall be
14 responsible for the administration of all community correction facilities,
15 services, and means of supervision, including probation and parole or any
16 type of post prison release or transfer.

17 (4) Facilities and services shall be diversified in program,
18 construction, and staff to provide effectually and efficiently for the
19 maximum care, supervision, and treatment of those persons accessing the
20 ~~department~~ division.

21 (b) This act shall be liberally construed so as to effectuate its
22 purposes.

23
24 SECTION 748. Arkansas Code § 12-27-125 is amended to read as follows:
25 12-27-125. ~~Department~~ Division of Community Correction – Creation –
26 Powers and duties.

27 (a) There is established, under the supervision, control, and
28 direction of the Board of Corrections, a ~~Department~~ Division of Community
29 Correction.

30 (b) The ~~Department~~ Division of Community Correction shall have the
31 following functions, powers, and duties, administered in accordance with the
32 policies, rules, and regulations promulgated by the Board of Corrections:

33 (1) It shall assume management and control over all properties,
34 both real and personal, facilities, books, records, equipment, supplies,
35 materials, contracts, funds, moneys, equities, and all other properties
36 belonging to the Arkansas Adult Probation Commission [abolished], and all

1 such properties ~~deemed appropriate for transfer~~ transferred from the
2 Department of Correction, as the Division of Correction was known as prior to
3 July 1, 2019, by the Board of Corrections;

4 (2)(A) It shall have management and control over all community
5 correction services.

6 (B) It shall have management and control over all
7 community correction facilities within the purview of the Board of
8 Corrections existing on or created after July 1, 1993;

9 (3) It shall employ such officers, employees, and agents and
10 shall secure such offices and quarters as deemed necessary to discharge the
11 functions of the ~~Department~~ Division of Community Correction, and which are
12 appropriately funded;

13 (4) It may establish and operate regional community correction
14 facilities if funds for the regional community correction facilities have
15 been authorized and appropriated by the General Assembly;

16 (5)(A) It may exercise all legally sanctioned supervision and
17 appropriate care over all offenders referred with proper documentation from
18 the circuit courts and all offenders transferred with proper documentation
19 from the ~~Department~~ Division of Correction pursuant to policies established
20 by the Board of Corrections and conditions set by the Parole Board.

21 (B) Legal custody remains with the referring court or the
22 ~~Department~~ Division of Correction;

23 (6) It shall administer the provision of probation services for
24 offenders processed through circuit courts;

25 (7) It shall administer the provision of parole services in
26 coordination with the Parole Board and in cooperation with the ~~Department~~
27 Division of Correction;

28 (8) It shall provide support services to the Parole Board or its
29 designated representatives as determined by the Parole Board;

30 (9) It shall assist the Board of Corrections in the furtherance
31 of its goals by staffing the specific charges articulated for it through
32 legislation and by the Board of Corrections;

33 (10) It shall conduct statewide public education and training to
34 foster the provision of correctional supervision and service in community
35 settings;

36 (11) It shall provide technical assistance when necessary to any

1 entity, program, division, or agency receiving assistance or clients through
2 the ~~Department~~ Division of Community Correction;

3 (12) It shall facilitate the development of a comprehensive
4 community correction plan through the provision of funding, criteria review,
5 and ongoing evaluation to ensure the maintenance of quality in supervision
6 and programming;

7 (13) It may accept gifts, grants, and funds from both public and
8 private sources with prior approval of the Board of Corrections;

9 (14) It shall establish minimum standards for case loads,
10 programs, facilities, and equipment and other aspects of the operation of
11 community correction programs and facilities necessary for the provision of
12 adequate and effective supervision and service;

13 (15) It shall establish minimum standards for the employment of
14 community correction employees;

15 (16) It shall establish programs of research, evaluation,
16 statistics, audit, and planning, including studies and evaluation of the
17 performance of various functions and activities of the ~~Department of~~
18 ~~Community Correction~~ Department of Corrections and studies affecting the
19 treatment of offenders and information about other programs;

20 (17)(A) It may receive and disburse moneys ordered to be paid by
21 offenders pursuant to statutory economic sanctions.

22 (B) It may receive fees to be levied by the courts or
23 authorized by the Board of Corrections for participation in specified
24 programs and to be paid by offenders on community correction.

25 (C) The payment of such sanctions and fees may be a
26 condition of probation, parole, or post prison transfer or attached to
27 admission and participation in a community correction program.

28 (D) The moneys collected shall be deposited into an
29 earmarked account at the state level to be used solely for the continuation
30 and expansion of community correction in this state.

31 (E) Economic sanction officers are to be authorized by the
32 ~~Department~~ Division of Community Correction to perform these duties pursuant
33 to policies and procedures adopted by the Board of Corrections and in accord
34 with any state statutory accounting requirements;

35 (18) It may cooperate and contract with the federal government,
36 with governmental agencies of Arkansas and other states, with political

1 subdivisions of Arkansas, and with private contractors to provide and improve
2 community correction options;

3 (19) It may inspect and evaluate any community correction site
4 and conduct audits of financial and service records at any reasonable time to
5 determine compliance with the Board of Corrections' rules, regulations, and
6 standards;

7 (20)(A) It shall maintain a full and complete record of each
8 offender under its supervision.

9 (B)(i) To protect the integrity of a record described in
10 subdivision (b)(20)(A) of this section and to ensure its proper use, it is
11 unlawful to permit inspection of or disclose information contained in a
12 record described in subdivision (b)(20)(A) of this section or to copy or
13 issue a copy of any part of the record except:

14 (a) As authorized by administrative rule;

15 (b) By order of a court of competent
16 jurisdiction; or

17 (c) Records posted on the ~~Department~~ Division
18 of Community Correction's website as required by § 12-27-145.

19 (ii) The rules under subdivision (b)(20)(B)(i)(a)
20 shall provide for adequate standards of security and confidentiality of a
21 record described in subdivision (b)(20)(A) of this section;

22 (21) Subject to availability of funds, it shall employ officers,
23 employees, and agents and secure sufficient offices for monitoring each sex
24 offender on parole or probation who is required to register under the Sex
25 Offender Registration Act of 1997, § 12-12-901 et seq., and who has been
26 assessed as a risk Level 3 or Level 4 offender; and

27 (22)(A) It may issue an arrest warrant for the arrest of any
28 person who, while in its custody, unlawfully escapes from the ~~Department~~
29 Division of Community Correction.

30 (B) The arrest warrant shall authorize:

31 (i) All law enforcement officers of this state to
32 take into custody and return the person named in the arrest warrant to the
33 custody of the ~~Department~~ Division of Community Correction or the ~~Department~~
34 Division of Correction; and

35 (ii) All law enforcement officers of this state, any
36 other state, or the federal government to take into custody and detain the

1 person in a suitable detention facility while awaiting further transfer to
2 the ~~Department~~ Division of Community Correction or the ~~Department~~ Division of
3 Correction.

4
5 SECTION 749. Arkansas Code § 12-27-126(a), concerning the Director of
6 the Department of Community Correction, is amended to read as follows:

7 (a) The Director of the ~~Department~~ Division of Community Correction
8 shall be appointed by the Board of Corrections at a salary fixed by the Board
9 of Corrections, which shall not exceed the maximum salary for the position
10 established by law.

11
12 SECTION 750. Arkansas Code § 12-27-126(d)(1), concerning the Director
13 of the Department of Community Correction, is amended to read as follows:

14 (1) Administer the ~~Department~~ Division of Community Correction
15 and supervise the administration of all facilities, programs, and services
16 under the ~~Department~~ Division of Community Correction's jurisdiction;

17
18 SECTION 751. Arkansas Code § 12-27-126(d)(3)-(5), concerning the
19 Director of the Department of Community Correction, are amended to read as
20 follows:

21 (3) Institute programs for the training and development of
22 personnel within the ~~Department~~ Division of Community Correction and have
23 authority to suspend, discharge, or otherwise discipline personnel in
24 accordance with policies prescribed by the Board of Corrections;

25 (4) Make an annual report to the Board of Corrections, which
26 will be forwarded to the Governor and the General Assembly, on the work of
27 the ~~Department~~ Division of Community Correction, including statistics and
28 other data, income derived from fee collection, a summary of expenditures of
29 the ~~Department~~ Division of Community Correction, and progress reports
30 regarding internal issues such as offender success, programming development,
31 bed space utilization, and future needs; and

32 (5) Cooperate with the ~~Department~~ Division of Correction, the
33 Parole Board, the Arkansas Sentencing Commission, judicial districts,
34 counties, and municipalities to provide the guidance and services required to
35 ensure a full range of correctional and community correction options for the
36 state as a whole.

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SECTION 752. Arkansas Code § 12-27-127(a) and (b), concerning transfers to the Department of Community Correction, are amended to read as follows:

(a) A commitment shall be treated as a commitment to the ~~Department~~ Division of Correction and subject to regular transfer eligibility unless:

(1) The commitment specifies that the inmate is to be judicially transferred to the ~~Department~~ Division of Community Correction; or

(2) If the court indicates on the commitment that the ~~Department~~ Division of Correction shall administratively determine the transfer of an inmate, the ~~Department~~ Division of Correction may administratively transfer a statutorily eligible inmate to the ~~Department~~ Division of Community Correction in accordance with rules promulgated by the Board of Corrections.

(b)(1) In accordance with rules and procedures promulgated by the Board of Corrections and the orders of the committing court, the Director of the ~~Department~~ Division of Community Correction shall assign a newly transferred inmate to an appropriate facility, placement, program, or status within the ~~Department~~ Division of Community Correction.

(2) The director may transfer an inmate from one facility, placement, program, or status to another facility, placement, program, or status consistent with the commitment, applicable law, and in accordance with treatment, training, and security needs.

(3)(A) An inmate may be administratively transferred back to the ~~Department~~ Division of Correction from the ~~Department~~ Division of Community Correction by the Parole Board following a hearing in which the inmate is found ineligible for placement in a ~~Department~~ Division of Community Correction facility as he or she fails to meet the criteria or standards established by law or policy adopted by the Board of Corrections or has been found guilty of a violation of the rules of the facility.

(B) Time served in a community correction facility or under supervision by the ~~Department~~ Division of Community Correction shall be credited against the sentence contained in the commitment to the ~~Department~~ Division of Correction.

SECTION 753. Arkansas Code § 12-27-127(c)(1)(C), concerning transfers to the Department of Community Correction, is amended to read as follows:

1 (C) Determined by the ~~Department~~ Division of Community
2 Correction to have successfully completed its therapeutic program.

3
4 SECTION 754. Arkansas Code § 12-27-127(c)(2)(A)(i), concerning
5 transfers to the Department of Community Correction, is amended to read as
6 follows:

7 (i) Aid the therapeutic rehabilitation of the
8 inmates judicially or administratively transferred to the ~~Department~~ Division
9 of Community Correction; and

10
11 SECTION 755. Arkansas Code § 12-27-127(c)(3) and (4), concerning
12 transfers to the Department of Community Correction, are amended to read as
13 follows:

14 (3) This subsection does not grant the Parole Board or the
15 ~~Department~~ Division of Community Correction the authority either to detain an
16 inmate beyond the sentence imposed upon him or her by a transferring court or
17 to shorten that sentence.

18 (4) An inmate may not be released from confinement under this
19 section if the inmate was sentenced and judicially or administratively
20 transferred to the ~~Department~~ Division of Community Correction at a time
21 earlier than that which would otherwise be possible if the inmate was
22 sentenced to the ~~Department~~ Division of Correction, regardless of any program
23 completed by the inmate.

24
25 SECTION 756. Arkansas Code § 12-27-127(d), concerning transfers to the
26 Department of Community Correction, is amended to read as follows:

27 (d)(1) An inmate of the ~~Department~~ Division of Correction who is to be
28 released on parole may be administratively transferred to the ~~Department~~
29 Division of Community Correction when the inmate is within eighteen (18)
30 months of his or her projected release date for the purpose of participating
31 in a reentry program of at least six (6) months in length.

32 (2) Each inmate administratively transferred under this
33 subsection shall be thoroughly screened and approved for participation by the
34 director or his or her designee.

35 (3) In accordance with rules promulgated by the Board of
36 Corrections, upon receipt of a referral from the director or his or her

1 designee, the Parole Board may release from incarceration an inmate who has
2 been:

3 (A) Administratively transferred to the ~~Department~~
4 Division of Community Correction; and

5 (B) Determined by the ~~Department~~ Division of Community
6 Correction to have successfully completed its reentry program.

7 (4) An inmate who has been administratively transferred under
8 this subsection shall be administratively transferred back to the ~~Department~~
9 Division of Correction if he or she:

10 (A) Is denied parole; or

11 (B) Fails to complete or is removed from the reentry
12 program.

13

14 SECTION 757. Arkansas Code § 12-27-128 is amended to read as follows:

15 12-27-128. ~~Department~~ Division of Correction Nontax Revenue Receipts
16 Fund.

17 (a) There is created in accordance with §§ 19-4-801 – 19-4-803, 19-4-
18 804 [repealed], 19-4-805, 19-4-806, and the Revenue Classification Law, § 19-
19 6-101 et seq. a cash fund entitled the ~~Department~~ Division of Correction
20 Nontax Revenue Receipts Fund to consist of receipts for telephone calls from
21 coinless telephones located on ~~Department~~ Division of Correction grounds, and
22 from other nontax receipts not previously identified to a fund of deposit.

23 (b) Funds held in the ~~Department~~ Division of Correction Nontax Revenue
24 Receipts Fund are to be administered and expended by the Director of the
25 ~~Department~~ Division of Correction within guidelines established by the Board
26 of Corrections for periodic transfers to other ~~department~~ division funds or
27 for disbursements in support of ~~department~~ division operations or debt
28 service.

29 (c) The ~~department~~ division will request cash fund appropriations in
30 accordance with established law and procedures after a determination by the
31 board of the usage of the ~~Department~~ Division of Correction Nontax Revenue
32 Receipts Fund.

33

34 SECTION 758. Arkansas Code § 12-27-129 is amended to read as follows:

35 12-27-129. Report on rehabilitation.

36 (a) The ~~Department~~ Division of Correction may report to the House

1 Committee on State Agencies and Governmental Affairs and the Senate Committee
2 on State Agencies and Governmental Affairs no later than December 1 of each
3 year regarding its efforts in rehabilitating the inmate population.

4 (b)(1) The report may include the ~~department's~~ division's
5 rehabilitative efforts regarding inmate education, specific job training,
6 behavior modification, psychological treatment and assistance, and substance
7 abuse programs.

8 (2) Further, the report is to include the amount of meritorious
9 good time awarded inmates by the ~~department~~ division for the successful
10 completion of the various rehabilitative programs.

11
12 SECTION 759. Arkansas Code § 12-27-130 is amended to read as follows:
13 12-27-130. Reimbursement of county.

14 Notwithstanding any other provision of law or ~~Department~~ Division of
15 Correction's commitment which may exist to the contrary, the Board of
16 Corrections shall not increase any reimbursement rate for payments made to
17 any county for the purpose of reimbursing the expenses of the care and
18 custody of state inmates without first seeking and receiving the approval of
19 the Governor and the Chief Fiscal Officer of the State.

20
21 SECTION 760. Arkansas Code § 12-27-131(a), concerning receipts for
22 reimbursement for daily care of city or county prisoners, is amended to read
23 as follows:

24 (a) Receipts from cities or counties reimbursed to the ~~Department~~
25 Division of Correction for daily care of city or county prisoners shall be
26 accounted for separately.

27
28 SECTION 761. Arkansas Code § 12-27-131(c), concerning the receipts for
29 reimbursement to counties and cities from the Department of Correction, is
30 amended to read as follows:

31 (c) The operational portion of such receipts shall also be used for
32 debt service unless approval is received from the ~~Director~~ Secretary of the
33 Department of Finance and Administration for other usages.

34
35 SECTION 762. Arkansas Code § 12-27-132 is amended to read as follows:
36 12-27-132. Award of pistol upon retirement or death.

1 When a ~~Department~~ Division of Community Correction parole or probation
2 officer retires from service or dies while still employed with the ~~department~~
3 division, in recognition of and appreciation for the service of the retiring
4 or deceased parole or probation officer, the ~~department~~ division may award
5 the pistol carried by the officer at the time of his or her death or
6 retirement from service to:

- 7 (1) The parole or probation officer; or
8 (2) The parole or probation officer's spouse if the spouse is
9 eligible under applicable state and federal laws to possess a firearm.

10
11 SECTION 763. Arkansas Code § 12-27-134 is amended to read as follows:
12 12-27-134. Probation services.

13 (a) The ~~Department~~ Division of Community Correction shall administer,
14 in cooperation with the circuit courts, the provision of probation services
15 as prescribed by the circuit courts.

16 (b) The ~~department~~ division shall establish an acceptable procedure
17 that ensures the selection of qualified applicants to meet the needs of the
18 circuit courts and includes subject matter experts from the circuit courts.

19
20 SECTION 764. Arkansas Code § 12-27-136 is amended to read as follows:
21 12-27-136. Services and equipment.

22 The ~~Department~~ Division of Correction and the ~~Department~~ Division of
23 Community Correction may provide services, furnishings, equipment, and office
24 space to assist the Parole Board in fulfilling the purposes for which the
25 board was created by law.

26
27 SECTION 765. Arkansas Code § 12-27-137 is amended to read as follows:
28 12-27-137. Confidentiality of emergency preparedness documents.

29 (a) The following sections of the ~~Department~~ Division of Correction's
30 official Emergency Preparedness Manual are confidential and shall not be
31 subject to disclosure under the Freedom of Information Act of 1967, § 25-19-
32 101 et seq.:

- 33 (1) Command Post Checklist;
34 (2) Command Notifications;
35 (3) Internal Notifications;
36 (4) External Notifications;

- 1 (5) Recall Notifications;
- 2 (6) Family Notifications;
- 3 (7) Tactical Systems;
- 4 (8) Command Structure;
- 5 (9) Emergency Locations;
- 6 (10) Emergency Equipment;
- 7 (11) Emergency Deactivation;
- 8 (12) Emergency Plans;
- 9 (13) Work Stoppage Directive;
- 10 (14) Evacuation Diagrams; and
- 11 (15) Facility Maps, Utility Locations.

12 (b) Any document described in subsection (a) of this section shall
13 become available for public viewing if it becomes part of a criminal
14 investigation, at the time that investigation is concluded and it is not
15 otherwise exempt by law.

16 (c) Any amendments or additions to the sections of the manual
17 described in subsection (a) of this section shall be reviewed annually by the
18 Charitable, Penal and Correctional Institutions Subcommittee of the
19 Legislative Council.

20

21 SECTION 766. Arkansas Code § 12-27-140(a)(1), concerning the
22 Department of Community Correction Annual Report, is amended to read as
23 follows:

24 (a)(1) On July 31 of each year, the ~~Department~~ Division of Community
25 Correction shall submit an annual report to the Legislative Council showing
26 the number of persons sentenced or transferred to the ~~department~~ division
27 during the fiscal year for each criminal offense classification.

28

29 SECTION 767. Arkansas Code § 12-27-140(c), concerning the Department
30 of Community Correction Annual Report, is amended to read as follows:

31 (c) The ~~department~~ division shall cooperate with and upon request make
32 presentations and provide various reports, to the extent the ~~department~~
33 division's budget will allow, to the Legislative Council concerning
34 ~~department~~ division policy and criteria on discretionary offender programs
35 and services.

36

1 SECTION 768. Arkansas Code § 12-27-142(a), concerning the Department
2 of Correction and the Department of Community Correction medical services
3 contract, is amended to read as follows:

4 (a) The ~~Department~~ Division of Correction and the ~~Department~~ Division
5 of Community Correction may enter into professional services contracts for
6 medical services for a contract period not to exceed ten (10) years.

7
8 SECTION 769. Arkansas Code § 12-27-143 is amended to read as follows:
9 12-27-143. Award of service weapon upon retirement or death.

10 When a ~~Department~~ Division of Correction employee retires from service
11 with at least twenty (20) years of service or dies while still employed with
12 the ~~department~~ division, in recognition of and appreciation for the service
13 of the retiring or deceased employee, the ~~department~~ division may award the
14 service weapon carried by the employee at the time of his or her retirement
15 from service or death to:

16 (1) The employee; or

17 (2) The employee's spouse if the spouse is eligible under
18 applicable state and federal laws to possess a firearm.

19
20 SECTION 770. Arkansas Code § 12-27-144 is amended to read as follows:
21 12-27-144. ~~Department~~ Division of Community Correction – Receipt of
22 grant money for certain purposes.

23 (a) The ~~Department~~ Division of Community Correction may receive money
24 from any source to be deposited into the Accountability Court Fund to be used
25 for adult and juvenile specialty court programs as defined under § 16-10-139,
26 based upon a formula to be developed by the Arkansas Judicial Council,
27 reviewed by the Specialty Court Program Advisory Committee, and approved by
28 the Legislative Council.

29 (b) The ~~department~~ division may promulgate rules to implement this
30 section.

31
32 SECTION 771. Arkansas Code § 12-27-145 is amended to read as follows:
33 12-27-145. Records to be posted on a public website – Definition.

34 (a) To the extent permitted by federal law, the ~~Department~~ Division of
35 Correction shall post on the ~~Department~~ Division of Correction's website the
36 following information concerning an inmate:

1 (1) The offense and sentence for any conviction for which the
2 inmate is incarcerated, including:

3 (A) Whether the inmate is subject to a suspended sentence,
4 if known; and

5 (B) The terms of the suspended sentence, if applicable;

6 (2)(A)(i) Beginning July 1, 2015, the disciplinary record for
7 each inmate.

8 (ii) As used in this subsection, "disciplinary
9 record" means a list of each major disciplinary violation after July 1, 2015,
10 for which the inmate has been found guilty.

11 (B) Additionally, the list and the date of major
12 disciplinary violations for which the inmate was found guilty shall be
13 displayed during the period the inmate is being considered for transfer to
14 parole;

15 (3)(A) Risk assessment scores completed after April 1, 2015.

16 (B) Risk assessment scores under this subdivision (a)(3)
17 shall include the name of the state agency that completed the risk
18 assessment, the date the risk assessment was conducted, and the level of
19 assessment.

20 (C) Information by the ~~Department~~ Division of Correction
21 regarding how risk assessments are scored shall also be posted;

22 (4) Custody status and level;

23 (5) Any known aliases;

24 (6) A current photograph of the inmate;

25 (7) A complete felony conviction summary to the extent that
26 information is available to the ~~Department~~ Division of Correction;

27 (8) To the extent the information is available to the ~~Department~~
28 Division of Correction, if an order of protection, no contact order, or other
29 order from an in-state or out-of-state court that prohibits contact or
30 communication with another person is in place;

31 (9) Any programs completed by the inmate while in custody; and

32 (10) An inmate's parole eligibility date or date he or she is to
33 be released from incarceration as well as a general explanation of how an
34 inmate's parole eligibility date is calculated, including good time credits.

35 (b)(1) To the extent permitted by federal law, the ~~Department~~ Division
36 of Community Correction shall post on the ~~Department~~ Division of Community

1 Correction's website the following information concerning a probationer,
2 parolee, or other person under the supervision of the ~~Department~~ Division of
3 Community Correction who has absconded or has had a warrant issued for his or
4 her arrest for evading supervision:

5 (A) Any offense and sentence for which the probationer,
6 parolee, or other person under the supervision of the ~~Department~~ Division of
7 Community Correction is being supervised, including:

8 (i) Whether the probationer, parolee, or other
9 person under the supervision of the ~~Department~~ Division of Community
10 Correction is subject to a suspended sentence, if known; and

11 (ii) The terms of the suspended sentence, if
12 applicable;

13 (B) A complete felony conviction summary to the extent
14 that information is available to the ~~Department~~ Division of Community
15 Correction;

16 (C)(i) Risk assessment scores completed after April 1,
17 2015.

18 (ii) Risk assessment scores under this subdivision
19 (b)(1)(C) shall include the name of the state agency that completed the risk
20 assessment, the date the risk assessment was conducted, and the level of
21 assessment.

22 (iii) Information by the ~~Department~~ Division of
23 Community Correction regarding how risk assessments are scored shall also be
24 posted;

25 (D) Any known aliases;

26 (E) A most recent photograph of the probationer, parolee,
27 or other person under the supervision of the ~~Department~~ Division of Community
28 Correction;

29 (F) To the extent the information is available to the
30 ~~Department~~ Division of Community Correction, if an order of protection, no-
31 contact order, or other order from an in-state or out-of-state court that
32 prohibits contact or communication with another person is in place;

33 (G) All major disciplinary violations while the
34 probationer, parolee, or other person under the supervision of the ~~Department~~
35 Division of Community Correction was incarcerated and the date of the major
36 disciplinary violation disposition;

1 (H) Any programs completed by the probationer, parolee, or
2 other person under the supervision of the ~~Department~~ Division of Community
3 Correction while on supervision and the date of completion; and

4 (I) A list of previous revocation offenses while on
5 probation or parole and date of revocation.

6 (2) The ~~Department~~ Division of Community Correction shall
7 develop a plan to establish a method for a victim of a crime committed by a
8 probationer, parolee, or other person under the supervision of the ~~Department~~
9 Division of Community Correction to directly and easily access the
10 information listed under this subsection.

11 (c)(1) When possible, court-generated records listed under this
12 section shall be electronic copies of the actual court documents.

13 (2) All victim information included in the court-generated
14 records under this subsection shall be redacted.

15
16 SECTION 772. Arkansas Code § 12-27-146 is amended to read as follows:

17 12-27-146. Tracking an inmate or person being supervised who is
18 serving a suspended sentence.

19 (a) The ~~Department~~ Division of Community Correction shall track a
20 person under its supervision who is serving a suspended sentence and notify
21 the prosecuting attorney with jurisdiction over the person's suspended
22 sentence if the ~~department~~ division knows that the person has not complied
23 with the terms and conditions of the suspended sentence.

24 (b) A circuit court shall notify the ~~department~~ division of all
25 suspended sentences to which the circuit court sentences a defendant,
26 including the defendant's name, the terms and conditions of the suspended
27 sentence, and the length of the suspended sentence.

28
29 SECTION 773. Arkansas Code § 12-27-147 is amended to read as follows:

30 12-27-147. Rulemaking and administrative directive reporting
31 requirement.

32 (a) A rule implemented by the Board of Corrections, ~~Department~~
33 Division of Correction, ~~Department~~ Division of Community Correction, or the
34 Parole Board pertaining to this act shall be approved by the appropriate
35 legislative committee before becoming effective.

36 (b) Any administrative directive or board policy pertaining to this

1 act implemented by the Board of Corrections, ~~Department~~ Division of
2 Correction, ~~Department~~ Division of Community Correction, or the Parole Board
3 shall be reported to the Legislative Council.
4

5 SECTION 774. Arkansas Code § 12-27-148(a), concerning the
6 confidentiality of Department of Community Correction's emergency
7 preparedness document, is amended to read as follows:

8 (a) The following sections of the ~~Department~~ Division of Community
9 Correction's official Emergency Preparedness Manual are confidential and
10 shall not be subject to disclosure under the Freedom of Information Act of
11 1967, § 25-19-101 et seq.:

- 12 (1) Command Post Checklist;
- 13 (2) Command Notifications;
- 14 (3) Internal Notifications;
- 15 (4) External Notifications;
- 16 (5) Recall Notifications;
- 17 (6) Family Notifications;
- 18 (7) Tactical Systems;
- 19 (8) Command Structure;
- 20 (9) Emergency Locations;
- 21 (10) Emergency Equipment;
- 22 (11) Emergency Deactivation;
- 23 (12) Emergency Plans;
- 24 (13) Work Stoppage Directive;
- 25 (14) Evacuation Diagrams; and
- 26 (15) Facility Maps, Utility Locations.

27
28 SECTION 775. Arkansas Code § 12-27-149 is amended to read as follows:

29 12-27-149. ~~Department~~ Division of Community Correction – Sufficient
30 staffing guidelines.

31 For the purposes of maintaining a sufficiently trained and specialized
32 staff of probation and parole officers, the ~~Department~~ Division of Community
33 Correction shall establish staffing guidelines using evidence-based practices
34 to develop ratios between the number of high-risk, medium-risk, and low-risk
35 probationers and parolees and the probation officers and parole officers
36 assigned to the high-risk, medium-risk, and low-risk probationers and

1 parolees in order to maximize the effectiveness of the monitoring ability of
2 the probation officers and parole officers.

3
4 SECTION 776. Arkansas Code § 12-27-202(a)(4), concerning the
5 legislative findings and intent under the Pay-for-Success Act, is amended to
6 read as follows:

7 (4) It is in the best interests of Arkansas residents to
8 encourage and enable the ~~Department~~ Division of Community Correction to
9 obtain financing for certain intervention services to reduce the recidivism
10 rate in Arkansas correctional facilities.

11
12 SECTION 777. Arkansas Code § 12-27-202(b), concerning the legislative
13 findings and intent under the Pay-for-Success Act, is amended to read as
14 follows:

15 (b) The General Assembly intends for this subchapter to enable the
16 ~~department~~ division to obtain private financing for intervention services on
17 a pay-for-success basis to reduce the reincarceration rate in Arkansas
18 correctional facilities.

19
20 SECTION 778. Arkansas Code § 12-27-203(2), concerning the definition
21 of "pay-for-success program" under the Pay-for-Success Act, is amended to
22 read as follows:

23 (2) "Pay-for-success program" means a program in which the
24 ~~Department~~ Division of Community Correction pays for intervention services
25 only if certain performance targets are met, including without limitation a
26 reduction in the reincarceration rate in Arkansas correctional facilities
27 through intervention measures that focus on improving personal responsibility
28 and decision making.

29
30 SECTION 779. Arkansas Code § 12-27-204(a) and (b), concerning the
31 Department of Community Correction pay-for-success programs, are amended to
32 read as follows:

33 (a) The ~~Department~~ Division of Community Correction may enter into an
34 agreement with entities, including without limitation licensed or accredited,
35 as applicable, community-based providers specializing in behavioral health,
36 case management, and job placement services, and two-year or four-year public

1 universities to create a pay-for-success program for incarcerated individuals
2 or individuals on parole or probation that requires the ~~department~~ division
3 to pay for the intervention services only if the performance targets stated
4 in the agreement are achieved.

5 (b) Before entering into an agreement under subsection (a) of this
6 section, the ~~department~~ division shall:

7 (1) Calculate the amount and timing of the payments that would
8 be earned by the entity providing the intervention services during each year
9 of the agreement if the performance targets are achieved; and

10 (2) Make a written determination that the agreement will result
11 in specific performance improvements and budgetary savings if the performance
12 targets are achieved.

13
14 SECTION 780. Arkansas Code § 12-28-101 is amended to read as follows:

15 12-28-101. Facilities.

16 (a)(1) The ~~Department~~ Division of Correction, with the approval of the
17 Board of Corrections, shall provide appropriate incarceration facilities for
18 women, youthful offenders, and other adult offenders committed to the
19 ~~department~~ division by the courts of this state.

20 (2) The ~~department~~ division shall also provide education and
21 other rehabilitation and treatment programs designed to prepare inmates
22 committed to the ~~department~~ division for productive and law-abiding lives
23 upon release from the ~~department~~ division.

24 (3) The ~~department~~ division may contract with state or private
25 entities such as accredited colleges or universities to provide additional
26 educational opportunities for inmates under the direction and authority of
27 the board and the Corrections School System.

28 (b) Any facility built or occupied by the ~~department~~ division for use
29 as a correctional facility shall be given a designated name of "unit" or
30 "center" depending on its size, location, and purpose of usage.

31
32 SECTION 781. Arkansas Code § 12-28-104 is amended to read as follows:

33 12-28-104. Paroling authority.

34 (a) The Parole Board shall be the paroling authority for the units of
35 the Department of ~~Correction~~ Corrections and shall make recommendations to
36 the Governor in cases from the criminal courts that, in the board's opinion,

1 the defendant in the case should be pardoned.

2 (b) The board shall consider the work skills, education,
3 rehabilitation, and treatment programs recommended to the inmate upon intake
4 and determine whether the inmate took advantage of those opportunities while
5 incarcerated in the department in making decisions regarding parole.

6

7 SECTION 782. Arkansas Code § 12-28-105 is amended to read as follows:
8 12-28-105. Continuity of care for persons released.

9 (a)(1) Any person incarcerated by the ~~Department~~ Division of
10 Correction may be permitted to remain within a treatment facility operated by
11 the ~~department~~ division, if serious physical or mental disorders or
12 disabilities exist, until release to a similar treatment setting outside of
13 the ~~department~~ division can be accomplished.

14 (2) In no case should the continuation of housing extend beyond
15 a seventy-two-hour period.

16 (b) The ~~department~~ division will adopt rules to govern the housing
17 situations.

18

19 SECTION 783. Arkansas Code § 12-28-106 is amended to read as follows:
20 12-28-106. Electric fencing.

21 (a)(1) The ~~Department~~ Division of Correction may design and install
22 high-voltage electrified security fence systems at all existing and proposed
23 medium and maximum security prisons.

24 (2) However, at the time of installation there shall be posted
25 universal danger signs on all sides of the system clearly visible to inmates
26 and the public displaying in English and Spanish the warning "deadly
27 voltage".

28 (b) The installation of these fence systems shall be double, twelve-
29 feet-high, security perimeter fences, with the exception of those locations
30 where a building or wall constitutes a part of the security perimeter.

31 (c) At institutions where these fences have been installed, the
32 ~~department~~ division shall provide perimeter patrol for the safety of the
33 local community.

34

35 SECTION 784. Arkansas Code § 12-28-107(a), concerning training for
36 inmates, is amended to read as follows:

1 (a) As provided for in § 12-28-101, the ~~Department~~ Division of
2 Correction shall provide education as well as training for inmates who want
3 to acquire skills for employment upon release.
4

5 SECTION 785. Arkansas Code § 12-28-107(b)(1), concerning training for
6 inmates, is amended to read as follows:

7 (b)(1) The ~~department~~ division shall identify high-demand vocations
8 and careers and shall accordingly create training and skills programs to
9 prepare inmates for gainful employment upon release.
10

11 SECTION 786. Arkansas Code § 12-28-602 is amended to read as follows:
12 12-28-602. Definitions.

13 As used in this subchapter:

14 (1) "Board" means the Board of Corrections;

15 (2) "County backlog" means those inmates sentenced to the
16 ~~Department~~ Division of Correction who are being housed in the county jails
17 until space is available in a prison;

18 (3) "Prison" means a correctional facility operated by the
19 ~~department~~ division under the supervision and direction of the board;

20 (4) "Prison system" means the prison facilities of the
21 ~~department~~ division; and

22 (5) "Rated capacity" means the actual available bed space in the
23 prison system as certified by the board, subject to applicable federal and
24 state laws and the rules and regulations adopted pursuant to those laws.
25

26 SECTION 787. Arkansas Code § 12-28-604(a)(1), concerning the list of
27 inmates eligible for early parole or discharge, is amended to read as
28 follows:

29 (a)(1) When the Board of Corrections declares a prison overcrowding
30 state of emergency due to exceeding ninety-eight percent (98%) of the rated
31 capacity and notifies the Director of the ~~Department~~ Division of Correction
32 of the emergency as authorized, the director shall certify to the board a
33 list of those inmates who are Class I and Class II, and the director shall
34 indicate which inmates he or she recommends for parole, transfer, or
35 discharge.
36

1 SECTION 788. Arkansas Code § 12-28-604(b)(1), concerning the list of
2 inmates eligible for early parole or discharge, is amended to read as
3 follows:

4 (b)(1) When the board declares a prison overcrowding state of
5 emergency due to the county jail backlog exceeding five hundred (500) inmates
6 and notifies the director of the emergency as authorized, the director shall
7 certify to the board a list of those inmates who are in Class I or Class II
8 status who have been incarcerated in a ~~department~~ division facility for a
9 minimum of six (6) months and are serving a sentence for a nonviolent offense
10 as established by the board, and the director shall indicate which inmates he
11 or she recommends for parole, transfer, or discharge.
12

13 SECTION 789. Arkansas Code § 12-28-702(3), concerning legislative
14 findings and determinations under the Arkansas Boot Camp Act, is amended to
15 read as follows:

16 (3) The ~~Department~~ Division of Correction should be given the
17 authority to establish boot camps which will provide a more affordable means
18 of punishing certain inmates who are designated as eligible for this
19 alternative punishment by the ~~department~~ division.
20

21 SECTION 790. Arkansas Code § 12-29-102 is amended to read as follows:

22 12-29-102. Inmates denied participation in furlough programs.

23 A person who is convicted of any of the following offenses shall be
24 ineligible to participate in any meritorious furlough program conducted by or
25 for the ~~Department~~ Division of Correction:

26 (1) Capital murder, § 5-10-101;

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

28 (3) Kidnapping, § 5-11-102;

29 (4) Rape, § 5-14-103;

30 (5) Any other offense concerning sexual offenses under § 5-14-
31 101 et seq.;

32 (6) An offense concerning sexual exploitation of children under
33 the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-
34 301 et seq.;

35 (7) An offense concerning use of children in sexual performances
36 under § 5-27-401 et seq.; or

1 (8) Stalking, § 5-71-229.

2
3 SECTION 791. Arkansas Code § 12-29-104 is amended to read as follows:
4 12-29-104. Contacts with persons outside the institution.

5 Under rules prescribed by the ~~Department~~ Division of Correction, heads
6 of the institutions of the ~~department~~ division may authorize:

7 (1) Visits and correspondence, under reasonable conditions,
8 between inmates and approved friends, relatives, and others;

9 (2) Temporary release of an inmate for such occasions as the
10 serious illness or death of a member of the inmate's family; or

11 (3) An interview of the inmate by a prospective employer.

12
13 SECTION 792. Arkansas Code § 12-29-106(a)(1), concerning mail to and
14 from inmates, is amended to read as follows:

15 (a)(1) A person without the consent of the Director of the ~~Department~~
16 Division of Correction shall not bring into or carry out of a prison any
17 letter or writing to or from any inmate.

18
19 SECTION 793. Arkansas Code § 12-29-110 is amended to read as follows:
20 12-29-110. Selling or trading position, working condition, or
21 promotion – Penalty.

22 (a) It is unlawful for any inmate or employee of the ~~Department~~
23 Division of Correction or any other person to sell, barter, or trade, or to
24 promise or offer to sell, barter, or trade any favored job or position,
25 working condition, or any promotion or demotion in any job or position at the
26 ~~department~~ division and to:

27 (1) Accept or receive any money, consideration, or thing of
28 value therefor;

29 (2) Make or accept any loan or money as inducement thereof; or

30 (3) Accept or receive any favored condition or job or position
31 at the ~~department~~ division either directly or indirectly as a result thereof.

32 (b)(1) A violation of this section is an unclassified felony
33 punishable by imprisonment for not less than one (1) year nor more than five
34 (5) years.

35 (2) If the person convicted under this section is an inmate in
36 the ~~department~~ division, the sentence shall commence to run from the

1 expiration of the sentence under which the person is serving at the time of
2 the violation of this section.

3
4 SECTION 794. Arkansas Code § 12-29-111 is amended to read as follows:

5 12-29-111. Transport of inmate required for legal proceeding.

6 (a) If an inmate in the care and custody of the ~~Department~~ Division of
7 Correction or the ~~Department~~ Division of Community Correction is required to
8 be present during a criminal proceeding or a civil proceeding that arises
9 from a criminal charge or conviction of any court in this state, the county
10 sheriff of the county in which the criminal proceeding or civil proceeding
11 takes place shall take custody of the inmate at the institution where the
12 inmate is confined, transport the inmate to the appropriate county, and make
13 him or her available to the court.

14 (b) At the conclusion of the criminal proceeding or civil proceeding,
15 the county sheriff shall transport the inmate back to the unit of the
16 ~~Department~~ Division of Correction or ~~Department~~ Division of Community
17 Correction from which the inmate was received and shall return custody of the
18 inmate to the ~~Department~~ Division of Correction or ~~Department~~ Division of
19 Community Correction officials.

20 (c)(1) The county sheriff's office is responsible for the custody,
21 sustenance, and safety of the inmate from the time the inmate is placed into
22 its custody until the time custody of the inmate is returned to the
23 ~~Department~~ Division of Correction or the ~~Department~~ Division of Community
24 Correction.

25 (2) The county in which the legal proceeding is held is
26 responsible for all expenses relating to the transportation and care of the
27 inmate.

28 (d) While transporting an inmate under this section, a county sheriff
29 has the full authority of his or her office in any county of this state in
30 matters relating to the transportation.

31 (e) This section does not apply to the transportation and care costs
32 for court appearances arising from charges brought by the ~~Department~~ Division
33 of Correction against the inmate for offenses committed while the inmate is
34 under the custody and care of the ~~Department~~ Division of Correction.

35 (f)(1) When an inmate in the care and custody of the ~~Department~~
36 Division of Correction or the ~~Department~~ Division of Community Correction is

1 required to be present for appearances in a civil proceeding that does not
2 arise from a criminal charge or conviction, the court requiring the inmate's
3 presence may assess costs against one (1) or more of the parties to the
4 proceeding to be paid to the ~~Department~~ Division of Correction or the
5 ~~Department~~ Division of Community Correction to compensate the actual cost of
6 transporting the inmate and to compensate other costs assessed by the court.

7 (2) Costs under this subsection shall not be assessed against
8 the Department of Human Services if the Department of Human Services is a
9 party to the proceeding.

10
11 SECTION 795. Arkansas Code § 12-29-112(a), concerning the discharge or
12 release of a prisoner, is amended to read as follows:

13 (a) At least one hundred twenty (120) days before an inmate's
14 anticipated release date, the ~~Department~~ Division of Correction, in
15 collaboration with the inmate and the ~~Department~~ Division of Community
16 Correction and the Parole Board, shall complete a prerelease assessment and
17 reentry plan, which may include a travel subsidy and transportation to the
18 closest commercial transportation pick-up point.

19
20 SECTION 796. Arkansas Code § 12-29-114 is amended to read as follows:

21 12-29-114. Notice of escape to victim or victim's next of kin.

22 (a)(1) Whenever an inmate serving a sentence for the commission of a
23 crime escapes from the custody of the ~~Department~~ Division of Correction, it
24 shall be the responsibility of the ~~department~~ division to immediately notify
25 the victim of the crime or the victim's next of kin of the inmate's escape.

26 (2) However, the victim of the crime or the victim's next of kin
27 will not be notified by the ~~department~~ division unless a request for the
28 notification has previously been delivered in writing to the ~~department~~
29 division.

30 (b)(1) When notice of an escape is given by the ~~department~~ division,
31 it shall be conveyed by telephone whenever possible and otherwise in writing
32 to the last known address of the victim or the victim's next of kin.

33 (2) It shall be the responsibility of the victim or the victim's
34 next of kin to notify the ~~department~~ division in writing of any future
35 changes in the victim's or victim's next of kin address and telephone number.

36 (c) It shall be the responsibility of the prosecuting attorney of the

1 county from which the inmate was committed to notify the victim or the
2 victim's next of kin that an address and telephone number may be provided to
3 the ~~department~~ division, and the procedure by which to supply information,
4 for the purpose of notification should the inmate escape.

5
6 SECTION 797. Arkansas Code § 12-29-115 is amended to read as follows:

7 12-29-115. Combination to escape – Authority of guards.

8 (a) The officers and guards of the ~~Department~~ Division of Correction
9 shall use all lawful and suitable means to defend themselves, secure the
10 persons of offenders, and prevent attempted violence and escape whenever two
11 (2) or more inmates shall combine for the following purposes or whenever one
12 (1) or more inmates shall:

13 (1) Offer violence to any officer, guard, or inmate;

14 (2) Do or attempt to do any injury to any building, workshop, or
15 appurtenance thereto;

16 (3) Attempt to escape; or

17 (4) Resist any lawful demand.

18 (b) If any of the officers or guards employed in the ~~department~~
19 division shall, in the attempt to prevent the escape of any inmate, any
20 attempt to retake any inmate who may have escaped, or in the attempt to
21 suppress any riot, revolt, or insurrection, take the life of any inmate, the
22 officer or guard shall not be held responsible therefor unless it is done
23 unnecessarily or wantonly.

24
25 SECTION 798. Arkansas Code § 12-29-201(a)-(f), concerning good time
26 for inmates, are amended to read as follows:

27 (a) An inmate may be entitled to meritorious good time reducing his or
28 her transfer eligibility date up to thirty (30) days for each month
29 incarcerated after imposition of sentence in one (1) of the units,
30 facilities, and centers maintained by the ~~Department~~ Division of Correction
31 or the ~~Department~~ Division of Community Correction.

32 (b) An inmate transferred or paroled to the supervision of the
33 ~~Department~~ Division of Community Correction under § 16-93-615 may receive
34 meritorious good time reducing his or her time of transfer or parole
35 supervision up to thirty (30) days for each month he or she is under the
36 supervision of the ~~Department~~ Division of Community Correction.

1 (c) Meritorious good time shall be allocated under rules and
2 regulations promulgated by the Board of Corrections and administered by the
3 respective ~~Department~~ Division of Correction or ~~Department~~ Division of
4 Community Correction staff subject to the provisions of this subchapter for
5 good discipline, behavior, work practices, job responsibilities, and
6 involvement in rehabilitative activities while in the custody or under the
7 supervision of the ~~Department~~ Division of Correction or the ~~Department~~
8 Division of Community Correction.

9 (d) Meritorious good time will not be applied to reduce the length of
10 a sentence.

11 (e)(1) Meritorious good time shall apply to an inmate's transfer
12 eligibility date from the ~~Department~~ Division of Correction or a community
13 correction facility.

14 (2) Meritorious good time shall under no circumstances reduce an
15 inmate's time served in prison by more than one-half ($\frac{1}{2}$) of the percentage
16 required by law for transfer eligibility.

17 (3) Meritorious good time shall under no circumstances reduce an
18 inmate's confinement in a community correction facility by more than one-half
19 ($\frac{1}{2}$).

20 (f)(1) The ~~Department~~ Division of Correction or the ~~Department~~
21 Division of Community Correction shall determine a date on which the inmate
22 who has acquired the maximum amount of meritorious good time necessary is to
23 be administratively transferred to a less restrictive placement or
24 supervision level within the ~~Department~~ Division of Community Correction.

25 (2) This date will be determined in accordance with the policies
26 developed by the Arkansas Sentencing Commission within the parameters allowed
27 by law.

28
29 SECTION 799. Arkansas Code § 12-29-204 is amended to read as follows:
30 12-29-204. Statutory good time – Maximum reduction.

31 No inmate sentenced to the ~~Department~~ Division of Correction shall ever
32 receive a reduction under this subchapter, or this subchapter and another
33 subchapter jointly, of more than thirty (30) days for each month served
34 except for the additional days of meritorious good time awards authorized in
35 § 12-29-202(d).

36

1 SECTION 800. Arkansas Code § 12-29-205(a)(1), concerning good time
2 earned by prisoners pending transfer, is amended to read as follows:

3 (a)(1) Any person who is sentenced by a circuit court to the
4 ~~Department~~ Division of Correction or the ~~Department~~ Division of Community
5 Correction and is awaiting transfer to the ~~Department~~ Division of Correction
6 or ~~Department~~ Division of Community Correction may earn meritorious good time
7 in accordance with law and regulations as adopted by the Board of
8 Corrections.

9
10 SECTION 801. Arkansas Code § 12-29-205(a)(3), concerning good time
11 earned by prisoners pending transfer, is amended to read as follows:

12 (3) Meritorious good time will be calculated upon reception
13 within the respective ~~department~~ division.

14
15 SECTION 802. Arkansas Code § 12-29-301(a) and (b), concerning the
16 creation of the Corrections School System, are amended to read as follows:

17 (a) Properties owned by the State of Arkansas and occupied by the
18 various units of the ~~Department~~ Division of Correction and the ~~Department~~
19 Division of Community Correction are by this subchapter designated as a
20 qualified school district to be known as the "Corrections School System".

21 (b) The system is created for the purpose of providing elementary,
22 secondary, and vocational and technical education to qualified persons
23 incarcerated in facilities of the ~~Department~~ Division of Correction and the
24 ~~Department~~ Division of Community Correction or to qualified persons
25 supervised by the ~~Department~~ Division of Community Correction, including
26 those on probation and parole or any type of post prison release or transfer
27 who are not high school graduates, irrespective of age.

28
29 SECTION 803. Arkansas Code § 12-29-303 is amended to read as follows:

30 12-29-303. Privileges of students – Limitations.

31 A school established under this subchapter and a person incarcerated
32 who attends the school shall be entitled to certain educational privileges
33 provided generally to common public schools and adult education programs
34 administered by the State Board of Education to students who attend the
35 common public schools and adult education programs under the laws of the
36 State of Arkansas, provided the privileges do not conflict with the rules and

1 policies of the State Board of Education, the ~~Department~~ Division of
2 Correction, and the ~~Department~~ Division of Community Correction or the laws
3 of the state respecting the establishment and operation of the ~~Department~~
4 Division of Correction and the ~~Department~~ Division of Community Correction.
5

6 SECTION 804. Arkansas Code § 12-29-304 is amended to read as follows:

7 12-29-304. Costs and funding.

8 (a) The cost of implementing and operating the Corrections School
9 System shall be borne by the state and shall be paid from funds appropriated
10 by the General Assembly from the general revenues of the state to the
11 ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
12 Correction, and the ~~Department of Education~~ Division of Elementary and
13 Secondary Education, together with any federal funds that may be available
14 for that purpose and from any funds generated from the operations of the
15 ~~Department~~ Division of Correction and the ~~Department~~ Division of Community
16 Correction, in the following manner:

17 (1) The cost of facilities, equipment, and current operation in
18 excess of the amount of grants and aids received from the ~~Department of~~
19 ~~Education~~ Division of Elementary and Secondary Education shall be borne by
20 the ~~Department~~ Division of Correction and the ~~Department~~ Division of
21 Community Correction as approved by the Board of Corrections; and

22 (2)(A) The system, as other school districts in the state, shall
23 share in the distribution of grants and aids from the ~~Department of Education~~
24 Division of Elementary and Secondary Education.

25 (B) However, in no case shall the moneys from the Public
26 School Fund to the system be in excess of the line item appropriation
27 provided to the system in the fund.

28 (b)(1) Recognizing that the primary roles, duties, and
29 responsibilities of the ~~Department~~ Division of Correction and the ~~Department~~
30 Division of Community Correction are to serve as penal and correctional
31 institutions, the system shall be exempt from and shall not be penalized in
32 any manner for not complying with:

33 (A) All of the following:

34 (i) The Quality Education Act of 2003, § 6-15-201 et
35 seq.;

36 (ii) The Arkansas Comprehensive Testing, Assessment,

1 and Accountability Program Act, § 6-15-401 et seq.;

2 (iii) Sections 6-15-901, 6-15-902, 6-15-2001 – 6-15-
3 2008, 6-15-2101 – 6-15-2107, 6-15-2201, 6-15-2301, and 6-16-1201 – 6-16-1206;

4 (iv) The Arkansas Fiscal Assessment and
5 Accountability Program, § 6-20-1901 et seq.; and

6 (v) The Arkansas Educational Financial Accounting
7 and Reporting Act of 2004, § 6-20-2201 et seq.;

8 (B) Any state laws or rules adopted to comply with the
9 federal Elementary and Secondary Education Act as reauthorized under the No
10 Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., as in existence on
11 January 1, 2005; and

12 (C) Any rule of the State Board of Education related to
13 the provisions listed in this subdivision (b)(1).

14 (2) The system's exemption from or noncompliance with the
15 provisions under this subsection shall not affect the system's, the
16 ~~Department~~ Division of Correction's, or the ~~Department~~ Division of Community
17 Correction's eligibility to apply for or receive state grants or aids for
18 public school districts as authorized in this subchapter and related rules.
19

20 SECTION 805. Arkansas Code § 12-29-306 is amended to read as follows:

21 12-29-306. Riverside Vocational and Technical School – Legislative
22 intent.

23 (a) This section and §§ 12-29-307 – 12-29-310 are intended to create
24 an additional state vocational and technical school to provide vocational and
25 technical education and training opportunities to qualified persons
26 incarcerated in facilities of the ~~Department~~ Division of Correction and the
27 ~~Department~~ Division of Community Correction or to qualified persons
28 supervised by the ~~Department~~ Division of Community Correction, including
29 those on probation and parole or any type of post prison release or transfer.

30 (b) This section and §§ 12-29-307 – 12-29-310 are not intended to
31 modify or repeal any of the laws of this state pertaining to vocational and
32 technical schools or vocational and technical education.
33

34 SECTION 806. Arkansas Code § 12-29-307 is amended to read as follows:

35 12-29-307. Riverside Vocational and Technical School – Establishment.

36 There is established a state vocational and technical school, to be

1 known as the "Riverside Vocational and Technical School", to be operated by
2 ~~the Career Education and Workforce Development Board within the Department~~
3 Division of Correction and the ~~Department~~ Division of Community Correction at
4 such facilities of the ~~Department~~ Division of Correction and the ~~Department~~
5 Division of Community Correction as may be designated by the ~~Department of~~
6 ~~Career Education in cooperation and agreement with the~~ Board of Corrections.
7

8 SECTION 807. Arkansas Code § 12-29-310(a), concerning the cost of
9 implementation and operation of the Riverside Vocational and Technical
10 Schools, is amended to read as follows:

11 (a) The cost of implementing and operating the Riverside Vocational
12 and Technical School at facilities of the ~~Department~~ Division of Correction
13 and the ~~Department~~ Division of Community Correction as authorized by this
14 section and §§ 12-29-306 – 12-29-309 shall be borne by the state and shall be
15 paid from funds appropriated by the General Assembly to the school, ~~the~~
16 ~~Department of Career Education, and to the Department~~ Division of Correction
17 and the ~~Department~~ Division of Community Correction, together with any
18 federal funds that may be available for this purpose in the following manner:

19 (1) The cost of facilities and equipment in excess of the amount
20 of moneys provided by the school ~~and the Department of Career Education~~ shall
21 be borne by the ~~Department~~ Division of Correction and the ~~Department~~ Division
22 of Community Correction as approved by the Board of Corrections; and

23 (2)(A) This section and §§ 12-29-306 – 12-29-309 contemplate
24 that the ~~Department~~ Division of Correction and the ~~Department~~ Division of
25 Community Correction will provide facilities for the vocational and technical
26 education programs operated by the school.

27 (B) However, nothing in this section and §§ 12-29-306 –
28 12-29-309 shall prohibit the Career Education and Workforce Development Board
29 from providing facilities or sharing in the cost of facilities and from
30 providing or sharing in the cost of repairing, maintenance, and upkeep of the
31 buildings and facilities with the ~~Department~~ Division of Correction and the
32 ~~Department~~ Division of Community Correction as funds are provided by the
33 General Assembly, or are otherwise available for these purposes.
34

35 SECTION 808. Arkansas Code § 12-29-402(a), concerning prisoner
36 physical examination and assignment to labor, is amended to read as follows:

1 (a) All prisoners committed to the ~~Department~~ Division of Correction
2 shall be given a physical examination initially upon arrival and then as
3 often as determined by medical staff of the ~~department~~ division.
4

5 SECTION 809. Arkansas Code § 12-29-403 is amended to read as follows:

6 12-29-403. Inmates with a disability – Duty of physician.

7 (a)(1) Each new inmate committed to the ~~Department~~ Division of
8 Correction shall be given a medical examination during the intake process.

9 (2)(A) During the medical examination required under subdivision
10 (a)(1) of this section, the medical provider shall determine what
11 restrictions, if any, shall be placed upon the inmate's work assignments.

12 (B) Restrictions placed upon an inmate's work assignments
13 under subdivision (a)(2)(A) of this section shall be updated as medically
14 necessary.

15 (b) The ~~department~~ division shall not assign an inmate to a work
16 assignment that conflicts with a restriction determined by the medical
17 provider for the ~~department~~ division under subdivision (a)(2) of this
18 section.

19 (c) Whenever the medical provider updates the restrictions under
20 subdivision (a)(2) of this section, the ~~department~~ division shall adjust the
21 inmate's work assignments as necessary to comply with the updated
22 restrictions.
23

24 SECTION 810. Arkansas Code § 12-29-404(b), concerning medical parole
25 for terminal illness or permanent incapacitation, is amended to read as
26 follows:

27 (b) The Director of the ~~Department~~ Division of Correction or the
28 Director of the ~~Department~~ Division of Community Correction shall communicate
29 to the Parole Board when, in the independent opinions of either a ~~Department~~
30 Division of Correction physician or ~~Department~~ Division of Community
31 Correction physician, and a consultant physician in Arkansas, an inmate is
32 either terminally ill or permanently incapacitated and should be considered
33 for transfer to parole supervision.
34

35 SECTION 811. Arkansas Code § 12-29-405(a), concerning inmates with
36 mental illness, is amended to read as follows:

1 (a) The ~~Department~~ Division of Correction authorized to develop in-
2 house due process procedures as approved by the Board of Corrections in
3 accordance with United States Supreme Court guidelines for the voluntary or
4 involuntary treatment of inmates with mental illness at the facilities and
5 programs of the Mental Health Services Section ~~of the Division of Health~~
6 ~~Treatment Services~~ of the ~~Department~~ Division of Correction.

7
8 SECTION 812. Arkansas Code § 12-29-405(b)(2), concerning inmates with
9 mental illness, is amended to read as follows:

10 (2) If an inmate's sentence expires while in treatment, the
11 ~~department~~ division shall release the inmate or pursue involuntary admission
12 under the appropriate procedures prescribed by existing laws governing the
13 involuntary treatment of individuals with mental illness.

14
15 SECTION 813. Arkansas Code § 12-29-406 is amended to read as follows:
16 12-29-406. Treatment for deviant sexual behavior.

17 (a) The purpose of this section is to enable the ~~Department~~ Division
18 of Correction to establish a core program that will utilize services of
19 medical and mental health providers in the community to provide intensive
20 treatment of inmates with paraphilia, commonly known as sexual deviations,
21 during their incarceration to increase their chance of returning to society
22 successfully upon their release.

23 (b)(1) The Mental Health Services Section ~~of the Division of Health~~
24 ~~Treatment Services~~ of the ~~Department~~ Division of ~~Corrections~~ Correction is
25 authorized to establish and maintain a program for intensive treatment for
26 control of deviant sexual behavior of inmates in a specialized treatment
27 setting and to cooperate with the medical services provider in screening for
28 sexually transmitted diseases as part of this program.

29 (2) The ~~department~~ division may develop the program in such a
30 manner as to utilize outside professionals from the medical and mental health
31 fields to provide both teaching and training opportunities.

32 (c) The section shall adopt, promulgate, and enforce such rules,
33 regulations, policies, and standards as may be necessary to carry out the
34 intent and purposes of this section.

35
36 SECTION 814. Arkansas Code § 12-29-407(a), concerning suspension of

1 inmate Medicaid, is amended to read as follows:

2 (a) When an individual who is enrolled in a Medicaid program or the
3 Health Care Independence Program is incarcerated to the custody of the
4 ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
5 Correction, or detained in a county jail, city jail, juvenile detention
6 facility, or other Division of Youth Services commitment, the Department of
7 Human Services shall suspend, to the degree feasible, the individual's
8 coverage during the period of incarceration for up to twelve (12) months from
9 the initial approval or renewal, unless prohibited by law.

10

11 SECTION 815. Arkansas Code § 12-29-506(b), concerning the duties of
12 Attorney General, is amended to read as follows:

13 (b) However, the Attorney General may refer to the prosecuting
14 attorney of the county from which the inmate in the ~~Department~~ Division of
15 Correction or the person residing in a ~~Department~~ Division of Community
16 Correction facility was sentenced, or to the prosecuting attorney of the
17 county in which any property or estate of the inmate or person is located, to
18 investigate or assist in legal proceedings to obtain the reimbursements for
19 the cost of care of the inmate or person, as authorized in this subchapter.

20

21 SECTION 816. Arkansas Code § 12-29-507(a), concerning the deposit of
22 recovered moneys by the Department of Correction, is amended to read as
23 follows:

24 (a)(1) All moneys recovered for the cost of care of prisoners in a
25 facility of the ~~Department~~ Division of Correction or the ~~Department~~ Division
26 of Community Correction under this subchapter shall be deposited into the
27 State Treasury.

28 (2) The Treasurer of State shall credit the moneys to the
29 appropriate fund established by law from which appropriations to the
30 ~~Department~~ Division of Correction or the ~~Department~~ Division of Community
31 Correction are made for inmate care and custody at the ~~Department~~ Division of
32 Correction or the ~~Department~~ Division of Community Correction.

33

34 SECTION 817. Arkansas Code § 12-30-101(g), concerning bartering
35 products of institutions, is amended to read as follows:

36 (g) The board may make reasonable rules and regulations governing the

1 ~~Department~~ Division of Correction in the administration of contracts,
2 compacts, or agreements made under the provisions of this section.

3
4 SECTION 818. Arkansas Code § 12-30-102(e), concerning the buying and
5 selling products of institutions, is amended to read as follows:

6 (e) The board may make reasonable rules and regulations governing the
7 ~~Department~~ Division of Correction in the administration of contracts,
8 compacts, or agreements made under the provisions of this section.

9
10 SECTION 819. Arkansas Code § 12-30-103(a), concerning the workcraft
11 program, is amended to read as follows:

12 (a) The ~~Department~~ Division of Correction and the ~~Department~~ Division
13 of Community Correction are authorized to operate a workcraft program that
14 offers instruction and training for their inmates, thereby helping prepare
15 them for employment after incarceration.

16
17 SECTION 820. Arkansas Code § 12-30-104(a)(1), concerning sale of
18 workcraft items, is amended to read as follows:

19 (a)(1) The sale of items produced in the ~~Department~~ Division of
20 Correction or the ~~Department~~ Division of Correction workcraft programs may be
21 through one (1) or more retail outlets operated by the ~~Department~~ Division of
22 Correction or the ~~Department~~ Division of Community Correction.

23
24 SECTION 821. Arkansas Code § 12-30-105(a), concerning the marketing
25 contracts of the Department of Correction, is amended to read as follows:

26 (a)(1) The ~~Department~~ Division of Correction may enter into marketing
27 contracts with dealers, retailers, distributors, and manufacturer
28 representatives permitting them to market and sell all products and services
29 produced by the ~~department~~ division industry program in accordance with
30 existing laws and state purchasing regulations.

31 (2) The Industry Division of the ~~department~~ division will be
32 responsible for all billing of purchased products and services to ensure that
33 only customers authorized by law are making said purchases.

34
35 SECTION 822. Arkansas Code § 12-30-203 is amended to read as follows:
36 12-30-203. Establishment of prison industries.

1 The Board of Corrections may purchase, in the manner provided by law,
2 equipment, raw materials, and supplies and engage supervisory personnel
3 necessary to establish and maintain for this state, at the ~~Department~~
4 Division of Correction or institution under control of the board, industries
5 for the utilization of services of prisoners in the manufacture or production
6 of articles or products as may be needed for the construction, operation,
7 maintenance, or use of any office, department, division, institution, or
8 agency supported, in whole or in part, by this state and the political
9 subdivisions of this state.

10
11 SECTION 823. Arkansas Code § 12-30-204 is amended to read as follows:
12 12-30-204. Purchase of goods by state and local agencies.

13 (a)(1) All offices, departments, divisions, institutions, and agencies
14 of this state which are supported in whole or in part by this state, and all
15 political subdivisions of this state, may purchase, at the discretion of the
16 office, department, division, institution, or agency, from the Board of
17 Corrections any products required by the offices, departments, divisions,
18 institutions, agencies, or political subdivisions of this state produced or
19 manufactured by the ~~Department~~ Division of Correction utilizing prison labor
20 as provided for by this subchapter.

21 (2)(A)(i) The Revenue Division of the Department of Finance and
22 Administration may request that the board propose the purchase of license
23 plates which are necessary as evidence of registration of motor vehicles and
24 trailers to be issued by the ~~division's~~ Revenue Division of the Department of
25 Finance and Administration's revenue offices.

26 (ii) The license plates would be produced or
27 manufactured by the ~~Department~~ Division of Correction utilizing prison labor.

28 (B) The provisions of this subdivision (a)(2) shall be
29 applicable beginning with the contracts for purchase or any purchases of
30 license plates which are required after the expiration of any contracts for
31 the purchase or manufacture of license plates that are in effect.

32 (b) Such offices, departments, divisions, institutions, and agencies
33 shall not be required to submit an invitation for bid to the board for all
34 products known to be produced or manufactured by the ~~Department~~ Division of
35 Correction utilizing prison labor as provided for by this subchapter.

36 (c)(1) The ~~Department~~ Division of Correction may enter into an

1 agreement with the Old State House Commission to utilize inmate labor in the
2 production or manufacture of items for resale by the Old State House Museum.

3 (2) Except as provided in subdivision (c)(3) of this section,
4 the proceeds from the sales of the items produced or manufactured under
5 subdivision (c)(1) of this section shall be used by the Old State House
6 Museum to:

7 (A) Develop exhibits and programs about the history of the
8 ~~Department~~ Division of Correction; or

9 (B) Maintain the Old State House Museum's collection of
10 the ~~Department~~ Division of Correction artifacts.

11 (3) The ~~Department~~ Division of Correction and the commission may
12 by rule modify the use of the proceeds from the sale of items produced or
13 manufactured under subdivision (c)(1) of this section.

14 (d) All purchases made pursuant to this section shall be made through
15 the ~~Department~~ Division of Correction's purchasing ~~department~~ division, upon
16 requisition by the proper authority of the office, department, division,
17 institution, agency, or political subdivision of this state requiring the
18 articles or products.

19
20 SECTION 824. Arkansas Code § 12-30-205 is amended to read as follows:

21 12-30-205. Purchase of goods by nonprofit organizations and other
22 individuals.

23 (a) A nonprofit organization may purchase goods produced by the
24 ~~Department~~ Division of Correction's Industry Division as provided for by this
25 subchapter upon the condition that the goods may not be resold for profit.

26 (b)(1) Goods produced by the division as provided for by this
27 subchapter, excluding furniture and seating, may also be purchased by:

28 (A) Current employees and retirees of the ~~Department~~
29 Division of Correction;

30 (B)(i) All employees of the public offices, departments,
31 divisions, institutions, school districts, and agencies of this state.

32 (ii) Subdivision (b)(1)(B)(i) of this section shall
33 not include members of the General Assembly; and

34 (C) Current and former members of the Board of
35 Corrections.

36 (2) Goods purchased by an individual under subdivision (b)(1) of

1 this section shall be for personal use only and not for resale.

2 (c) Goods or products that are produced, assembled, or packaged in
3 whole or in part by the ~~Department~~ Division of Correction utilizing prison
4 labor may be sold to inmates of the ~~Department~~ Division of Correction,
5 ~~Department~~ Division of Community Correction, or a local correctional
6 facility.

7

8 SECTION 825. Arkansas Code § 12-30-206(b), concerning prices for items
9 furnished to inmates, is amended to read as follows:

10 (b) The prices shall be uniform and nondiscriminating to all and shall
11 not exceed the wholesale market prices with the exception of goods or items
12 produced, assembled, or packaged in whole or in part specifically for sale or
13 resale to inmates of the ~~Department~~ Division of Correction, ~~Department~~
14 Division of Community Correction, or a local correctional facility.

15

16 SECTION 826. Arkansas Code § 12-30-210(a), concerning the annual
17 statement of the Director of the Department of Correction, is amended to read
18 as follows:

19 (a) The Director of the ~~Department~~ Division of Correction and the
20 manager or authorities, by whatever name known, having charge of the penal
21 institutions of this state, shall annually make a full detailed statement of:

22 (1) All materials, machinery, or other property procured, and
23 the cost thereof, and the expenditures made during the last preceding year
24 for manufacturing purposes, together with a statement of all materials then
25 on hand to be manufactured, or in process of manufacture, or manufactured;

26 (2) All machinery, fixtures, or other appurtenances for the
27 purpose of carrying on the labor of the prisoners; and

28 (3) The earnings realized during the last preceding year as the
29 proceeds of the labor of the prisoners at the ~~Department~~ Division of
30 Correction or penal institutions of this state.

31

32 SECTION 827. Arkansas Code § 12-30-215 is amended to read as follows:

33 12-30-215. Purchase for construction or operation of prison.

34 Any contractor or subcontractor who has entered into a contract with or
35 for the benefit of a state board, state agency, or state-supported
36 institution of higher education for constructing, equipping, or operating, in

1 whole or in part, any facility of the board, agency, or institution may
2 purchase goods produced by the ~~Department~~ Division of Correction and the
3 ~~Department~~ Division of Community Correction for use in the performance of the
4 contract.

5
6 SECTION 828. Arkansas Code § 12-30-301 is amended to read as follows:

7 12-30-301. Farming and livestock activities.

8 (a) The ~~Department~~ Division of Correction shall make maximum
9 utilization of the farm lands of the various institutions of the ~~department~~
10 division through the use of modern agricultural machinery, equipment, and
11 technology in producing crops and livestock for use in feeding prisoners and
12 for sale on the market to produce income for the maintenance and operation of
13 the institutions of the ~~department~~ division.

14 (b) The Director of the ~~Department~~ Division of Correction, with the
15 approval of the Board of Corrections, shall promulgate necessary rules and
16 regulations for the operation of the farming and livestock activities of the
17 various institutions of the ~~department~~ division, the employment of personnel,
18 the assignment of inmate labor, and other activities as may be reasonably
19 necessary to accomplish the purposes as provided in this section.

20
21 SECTION 829. Arkansas Code § 12-30-303 is amended to read as follows:

22 12-30-303. Cooperation of Cooperative Extension Service.

23 It shall be the duty of the University of Arkansas Cooperative
24 Extension Service to cooperate with the Director of the ~~Department~~ Division
25 of Correction to the end that proper crops may be planted to the best
26 advantage and proper methods of soil treatment may be utilized and proper
27 methods of canning and preserving may be used to the best advantage.

28
29 SECTION 830. Arkansas Code § 12-30-305(a), concerning sales by the
30 Director of the Department of Correction, is amended to read as follows:

31 (a) The Director of the ~~Department~~ Division of Correction, by and with
32 the consent and approval of the Board of Corrections, shall make all sales of
33 commodities and articles produced and offered for sale by the various penal
34 institutions under his or her supervision.

35
36 SECTION 831. Arkansas Code § 12-30-306 is amended to read as follows:

1 12-30-306. Purchases, expenditures, and sales – Compliance with laws.

2 (a) All purchases for or in behalf of the ~~Department~~ Division of
3 Correction and its various institutions shall be in strict compliance with
4 the state purchasing laws and applicable rules and regulations promulgated
5 thereunder.

6 (b) All expenditures of funds appropriated for the ~~department~~ division
7 shall be in accordance with the General Accounting and Budgetary Procedures
8 Law, § 19-4-101 et seq., and other applicable fiscal laws of this state
9 governing expenditure of state funds.

10 (c) All sales of farm products, livestock, or other products produced
11 in connection with the agriculture and livestock activities at the respective
12 institutions of the ~~department~~ division shall be in accordance with the
13 applicable laws of this state governing the advertising for bids and awarding
14 of contracts for the sales.

15
16 SECTION 832. Arkansas Code § 12-30-307(a) and (b), concerning the
17 payment for food used by the Department of Correction, are amended to read as
18 follows:

19 (a) The ~~Department~~ Division of Correction may make payment from the
20 ~~Department~~ Division of Correction Inmate Care and Custody Fund Account to the
21 ~~Department~~ Division of Correction Farm Fund in an amount not to exceed fifty
22 cents (50¢) on each dollar's worth of food produced on the ~~department~~
23 division farm for consumption in the Inmate Care and Custody Program.

24 (b) The ~~department~~ division shall keep appropriate records reflecting
25 farm production and the value of farm-produced products utilized in the
26 Inmate Care and Custody Program and shall keep records of current market
27 values in support of any such payments.

28
29 SECTION 833. Arkansas Code § 12-30-401 is amended to read as follows:

30 12-30-401. Work and rehabilitative programs – Work-release programs.

31 (a) All inmates committed to the ~~Department~~ Division of Correction for
32 institutional care shall be required to participate in the various work
33 programs to which assigned and may be afforded vocational training and
34 rehabilitative opportunities in accordance with rules, regulations, and
35 procedures therefor as promulgated by the Director of the ~~Department~~ Division
36 of Correction with the approval of the Board of Corrections.

1 (b) The ~~department~~ division may institute "work-release" programs
2 under which the inmates selected to participate in the programs may be
3 gainfully employed or attend school outside of the units maintained by the
4 ~~department~~ division, under rules and regulations promulgated by the director
5 with the approval of the board.

6
7 SECTION 834. Arkansas Code § 12-30-402(a), concerning the
8 establishment of new work-release centers, is amended to read as follows:

9 (a) The Community Correction Revolving Fund may borrow from the Budget
10 Stabilization Trust Fund for the establishment of new work-release centers
11 for the ~~Department~~ Division of Correction.

12
13 SECTION 835. Arkansas Code § 12-30-404(a), concerning inmates excepted
14 from the work-release program, is amended to read as follows:

15 (a) No person shall be allowed to participate in any work-release
16 program conducted by or for the ~~Department~~ Division of Correction if
17 convicted of:

- 18 (1) A capital offense;
- 19 (2) Murder in the first degree, § 5-10-102;
- 20 (3) Rape, § 5-14-103;
- 21 (4) Kidnapping, § 5-11-102; or
- 22 (5) Aggravated robbery a second or subsequent time, § 5-12-103.

23
24 SECTION 836. Arkansas Code § 12-30-405 is amended to read as follows:
25 12-30-405. Contracts for inmate labor.

26 The ~~Department~~ Division of Correction may make contractual arrangements
27 for use of inmate labor by the following prioritized list:

- 28 (1) Other state departments, divisions, and agencies;
- 29 (2) Counties, cities, and school districts; and
- 30 (3) Civic organizations, other nonprofit organizations, and
31 private citizens, including, but not limited to, those responsible for the
32 preservation of natural resources or other public works.

33
34 SECTION 837. Arkansas Code § 12-30-407(a)(1)(A), concerning the
35 housing of inmates in the work-release program, is amended to read as
36 follows:

1 (a)(1)(A) The Board of Corrections may promulgate rules to allow the
2 proper classification of inmates to be released to the county sheriffs of
3 approved jail facilities or chiefs of police or other authorized law
4 enforcement officers of city-operated approved jail facilities or community
5 correction centers outside the ~~Department~~ Division of Correction.

6
7 SECTION 838. Arkansas Code § 12-30-407(a)(2)(A)(ii), concerning the
8 housing of inmates in the work-release program, is amended to read as
9 follows:

10 (ii) The ~~Department~~ Division of Correction shall
11 review the requests and shall submit a list of inmates with appropriate
12 skills or backgrounds for the particular job needs of the approved jail
13 facility, political subdivision, or nonprofit organization with a chapter,
14 committee, or other governing body that is based in the county that is being
15 provided assistance by a political subdivision, in accordance with the
16 ~~Department~~ Division of Correction's classification of inmates' skills and
17 backgrounds.

18
19 SECTION 839. Arkansas Code § 12-30-407(a)(3)(B), concerning the
20 housing of inmates in the work-release program, is amended to read as
21 follows:

22 (B) Notification of the victim or victim's family shall be
23 done by mail to the last known address supplied to the ~~Department~~ Division of
24 Correction in accordance with ~~Department~~ Division of Correction policies.

25
26 SECTION 840. Arkansas Code § 12-30-407(a)(4)(A), concerning the
27 housing of inmates in the work-release program, is amended to read as
28 follows:

29 (4)(A) Inmates released under this section shall be entitled to
30 credit on their sentences under the meritorious classification system of the
31 ~~Department~~ Division of Correction.

32
33 SECTION 841. Arkansas Code § 12-30-502(a), concerning transportation
34 and sale of goods produced by inmates, is amended to read as follows:

35 (a) Goods produced in whole or in part by inmates of the ~~Department~~
36 Division of Correction or the ~~Department~~ Division of Community Correction

1 participating in private sector prison industry enhancement programs may be
2 transported and sold in the same manner as goods produced by free persons,
3 provided that the inmates participating in the private sector prison industry
4 enhancement programs are paid at least the minimum wage prescribed by state
5 law.

6
7 SECTION 842. Arkansas Code § 12-41-105(c), concerning commissions from
8 prisoner telephone service profits and prisoner commissary services, is
9 amended to read as follows:

10 (c) This section does not apply to funds derived from prisoner
11 telephone services or prisoner commissary services provided in ~~Department~~
12 Division of Correction facilities or ~~Department~~ Division of Community
13 Correction facilities or in municipally owned detention facilities or in
14 county detention facilities in counties with a population of one hundred
15 seventy-five thousand (175,000) or more according to the latest federal
16 decennial census.

17
18 SECTION 843. Arkansas Code § 12-41-107(a)(2), concerning the
19 definition of "local correctional facility" and the medical services billing
20 to a local correctional facility, is amended to read as follows:

21 (2) "Local correctional facility" means a county jail, a city
22 jail, regional jail, criminal justice center, or county house of correction
23 that is not operated by the ~~Department~~ Division of Correction, the ~~Department~~
24 Division of Community Correction, or a federal correctional agency; and

25
26 SECTION 844. Arkansas Code § 12-41-716 is amended to read as follows:
27 12-41-716. Use of board jail fund for supervision and transportation
28 of inmates.

29 In addition to any other purposes for which funds in a county jail
30 board jail fund, municipal jail board jail fund, or public instrumentality
31 jail board jail fund may be used, the funds may be used for the
32 transportation and supervision of inmates assigned to outside work projects
33 or for transporting inmates to a ~~Department~~ Division of Correction facility,
34 as determined by the board.

35
36 SECTION 845. Arkansas Code § 12-50-105(a), concerning regional

1 correctional commissions, is amended to read as follows:

2 (a) Political subdivisions may individually, or in combination with
3 each other, contract with the state through the ~~Department~~ Division of
4 Correction or with prison contractors for the financing, acquisition,
5 construction, and operation of facilities for the housing of inmates.

6
7 SECTION 846. Arkansas Code § 12-50-106(a) and (b), concerning
8 contracts for correctional facilities, are amended to read as follows:

9 (a) The ~~Department~~ Division of Correction, any regional corrections
10 commission, and any political subdivision are authorized to enter into
11 contracts with each other and with prison contractors for the financing,
12 acquiring, constructing, and operating of facilities.

13 (b) Any contract for the financing, acquiring, constructing, or
14 operating of facilities between the ~~department~~ division and a prison
15 contractor shall be approved by the Board of Corrections, subject to the
16 advice and consent of the Legislative Council.

17
18 SECTION 847. Arkansas Code § 12-50-109(a)(1)(A), concerning contracts
19 with the Arkansas Development Finance Authority, is amended to read as
20 follows:

21 (A) All revenues derived from payments to be made by the
22 ~~Department~~ Division of Correction for the housing of prisoners;

23
24 SECTION 848. Arkansas Code § 12-50-111(a)(1), concerning private
25 correctional facilities, is amended to read as follows:

26 (a)(1) No private correctional facility in which inmates committed to
27 the ~~Department~~ Division of Correction, out-of-state inmates, or federal
28 inmates are to be housed shall be constructed nor shall any facility be
29 renovated for the purpose of creating a private correctional facility in
30 which inmates committed to the ~~Department~~ Division of Correction, out-of-
31 state inmates, or federal inmates are to be housed within the state without
32 review and approval by the Board of Corrections and review and approval by
33 the Legislative Council.

34
35 SECTION 849. Arkansas Code § 12-51-104(a)(1), concerning the Arkansas
36 State Council for the Interstate Commission for Adult Offender Supervision,

1 is amended to read as follows:

2 (1) One (1) nonelected person, chosen from a list of five (5)
3 names submitted by the Director of the ~~Department~~ Division of Community
4 Correction, who will act as the representative of the legislative branch of
5 government, to be appointed by the President Pro Tempore of the Senate;

6
7 SECTION 850. Arkansas Code § 12-51-104(a)(5), concerning the Arkansas
8 State Council for the Interstate Commission for Adult Offender Supervision,
9 is amended to read as follows:

10 (5) The Director of the ~~Department~~ Division of Community
11 Correction or his or her designee who, in addition to serving as a member of
12 the council, shall be appointed by the Governor as the compact administrator
13 for the state.

14
15 SECTION 851. Arkansas Code § 14-22-106(16), concerning purchases
16 exempt from soliciting bids, is amended to read as follows:

17 (16) All goods and services that are regularly provided to state
18 agencies and county government by the ~~Department~~ Division of Correction's
19 various penal industries;

20
21 SECTION 852. Arkansas Code § 14-284-304(7), concerning the power and
22 duties of the Rural Fire Protection Service of the Arkansas Forestry
23 Commission, is amended to read as follows:

24 (7) To contract with public and private sources, including the
25 ~~Department~~ Division of Correction, for providing mechanical, painting, body
26 work, or other repair services relative to the conversion, painting, and
27 adaptation of vehicles being converted into fire protection vehicles, and to
28 reimburse for the cost of the services;

29
30 SECTION 853. Arkansas Code § 15-5-213(b), concerning the Correction
31 Facilities Construction Fund, is amended to read as follows:

32 (b) The fund shall receive moneys payable from the Treasurer of State
33 in accordance with § 15-5-422. All moneys deposited into the fund and all
34 income, interest, and earnings therefrom are declared to be cash funds
35 restricted in their use and dedicated and are to be used solely for
36 acquisition and construction of regional correction facilities for use by the

1 ~~Department~~ Division of Correction, specifically including a regional
2 correction facility in Chicot County, which facility will be leased to and
3 utilized by the ~~department~~ division.

4
5 SECTION 854. Arkansas Code § 15-5-213(e)(1)(A), concerning the
6 Correction Facilities Construction Fund, is amended to read as follows:

7 (A) Moneys payable from funds in the ~~department~~ division
8 as established in § 12-27-128;

9
10 SECTION 855. Arkansas Code § 15-5-213(e)(1)(C), concerning the
11 Correction Facilities Construction Fund, is amended to read as follows:

12 (C) Such cash funds of the ~~department~~ division as are
13 deemed necessary by the Chief Fiscal Officer of the State for the purposes
14 established herein.

15
16 SECTION 856. Arkansas Code § 15-5-213(e)(2), concerning the Correction
17 Facilities Construction Fund, is amended to read as follows:

18 (2) All moneys deposited into the Correction Facilities
19 Privatization Account and all income, interest, and earnings therefrom are
20 declared to be cash funds restricted in their use and dedicated to be used
21 solely for acquisition, construction, and rehabilitation of correction
22 facilities for the use and benefit of the ~~department~~ division or for payments
23 to private contractors for the use of correction facilities by the ~~department~~
24 division.

25
26 SECTION 857. Arkansas Code § 16-13-1903(a)(2)(B) and (C), concerning
27 the Eleventh Judicial District, are amended to read as follows:

28 (B) Presiding over all matters involving acts committed by
29 inmates of the ~~Department~~ Division of Correction over which the Eleventh
30 Judicial District-West has jurisdiction; and

31 (C) Hearing all civil actions filed by inmates of the
32 ~~Department~~ Division of Correction over which the Eleventh Judicial District-
33 West has jurisdiction.

34
35 SECTION 858. Arkansas Code § 16-21-106(a)(1)(L), concerning assistance
36 to victims and witnesses of crimes, is amended to read as follows:

1 (L) Notice of the right to receive information from the
2 Department of ~~Correction~~ Corrections, Arkansas State Hospital, and any other
3 facility to which the defendant is committed by the court.
4

5 SECTION 859. Arkansas Code § 16-43-214 is amended to read as follows:
6 16-43-214. Prisoner from ~~Department~~ Division of Correction as witness.

7 (a) Upon presentation by the prosecuting attorney or interested
8 defense counsel of a petition duly verified and for good cause, any circuit
9 court having jurisdiction of any criminal offense involving a felony pending
10 for trial in that court may have jurisdiction and authority to provide by
11 proper order for the presence in court, and for the trial and as a witness,
12 of any person incarcerated in the ~~Department~~ Division of Correction whose
13 testimony would be material either for the State of Arkansas or for the
14 defendant in the action.

15 (b) Upon the granting of a petition by the circuit court pursuant to
16 subsection (a) of this section and upon presentation to the authorized
17 officials of the ~~Department~~ Division of Correction of a signed order or
18 certified copy thereof by the circuit clerk of such court, the officials
19 having custody of the prisoner are authorized and directed to transport or
20 cause to be transported the prisoner by such means and methods as they deem
21 proper, at the time and place as directed by the order of the circuit court.

22 (c) The custody of a prisoner sought to be used as a witness shall at
23 all times remain in the authorized officials of the ~~Department~~ Division of
24 Correction, subject to the order and direction of the circuit court.
25 Immediately upon the completion of the testimony by the prisoner in court or
26 upon the completion of the trial requiring his or her presence, the prisoner
27 shall be immediately returned to the ~~Department~~ Division of Correction by the
28 official having his or her custody.
29

30 SECTION 860. Arkansas Code § 16-46-106(d), concerning access to
31 medical records, is amended to read as follows:

32 (d) This section does not apply to the ~~Department~~ Division of
33 Correction.
34

35 SECTION 861. Arkansas Code § 16-68-601 is amended to read as follows:
36 16-68-601. Amount of fees and costs.

1 (a) If an incarcerated person, defined for purposes of this subchapter
2 as a person who has been convicted of a crime and is imprisoned for that
3 crime or is being held in custody for trial or sentencing, files a civil
4 action, the court shall order the incarcerated person to pay, as a partial
5 payment of any court filing fees and court costs required by law, a first-
6 time payment of twenty percent (20%) of the preceding six (6) months' income
7 from the incarcerated person's inmate account as administered by the
8 ~~Department~~ Division of Correction or the ~~Department~~ Division of Community
9 Correction.

10 (b) The ~~Department~~ Division of Correction or the ~~Department~~ Division
11 of Community Correction shall withdraw these moneys maintained in the account
12 for payment of the filing fees and court costs and shall forward these moneys
13 collected at such times as the moneys exceed ten dollars (\$10.00) to the
14 appropriate court clerk or clerks until the actual court fees are paid in
15 full.

16
17 SECTION 862. Arkansas Code § 16-80-104(a), concerning a comprehensive
18 mental health evaluation for a minor convicted of capital murder or murder in
19 the first degree, is amended to read as follows:

20 (a) If a comprehensive mental health evaluation is not performed at
21 the request of the minor convicted of capital murder, § 5-10-101, or murder
22 in the first degree, § 5-10-102, before his or her trial or before he or she
23 is sentenced, the circuit court shall ensure that a comprehensive mental
24 health evaluation is conducted on the minor by an adolescent mental health
25 professional licensed in the state before the minor's entry into the
26 ~~Department~~ Division of Correction for a sentence of life imprisonment.

27
28 SECTION 863. Arkansas Code § 16-80-104(c)(2), concerning a
29 comprehensive mental health evaluation for a minor convicted of capital
30 murder or murder in the first degree, is amended to read as follows:

31 (2) Shall be included in any documentation or inmate file kept
32 by the ~~Department~~ Division of Correction or, if the minor is eventually
33 supervised on parole, the ~~Department~~ Division of Community Correction.

34
35 SECTION 864. Arkansas Code § 16-90-104 is amended to read as follows:
36 16-90-104. Commitment of women for felony.

1 Women who are convicted of or who plead guilty to the commission of
2 felonies may be committed to the Department of ~~Correction~~ Corrections by any
3 court of criminal jurisdiction.

4
5 SECTION 865. Arkansas Code § 16-90-118 is amended to read as follows:
6 16-90-118. Duty of court to report to ~~Department~~ Division of
7 Correction.

8 (a) Whenever any person is sentenced to the ~~Department~~ Division of
9 Correction, it shall be the duty of the court before which he or she has been
10 convicted to cause to be made and transmitted to the agent of the ~~department~~
11 division a short report of the circumstances attending the offense,
12 particularly those which tended to aggravate or extenuate the offense.

13 (b) The agent shall file and preserve the report.

14
15 SECTION 866. Arkansas Code § 16-90-120(a), concerning a felony
16 committed with a firearm, is amended to read as follows:

17 (a) Any person convicted of any offense that is classified by the laws
18 of this state as a felony who employed any firearm of any character as a
19 means of committing or escaping from the felony, in the discretion of the
20 sentencing court, may be subjected to an additional period of confinement in
21 the ~~Department~~ Division of Correction for a period not to exceed fifteen (15)
22 years.

23
24 SECTION 867. Arkansas Code § 16-90-121 is amended to read as follows:
25 16-90-121. Second or subsequent felony with firearm.

26 Any person who is found guilty of or pleads guilty or nolo contendere
27 to a second or subsequent felony involving the use of a firearm shall be
28 sentenced to a minimum term of imprisonment of ten (10) years in the
29 ~~Department~~ Division of Correction without eligibility of parole or community
30 correction transfer but subject to reduction by meritorious good-time credit.

31
32 SECTION 868. Arkansas Code § 16-90-122(a)(2), concerning the post-
33 conviction release of nonviolent offenders, is amended to read as follows:

34 (2) Been sentenced to a term of imprisonment and committed to
35 the ~~Department~~ Division of Correction or the ~~Department~~ Division of Community
36 Correction and is awaiting transfer to the ~~Department~~ Division of Correction

1 or the ~~Department~~ Division of Community Correction.

2
3 SECTION 869. Arkansas Code § 16-90-122(c)(1), concerning the post-
4 conviction release of nonviolent offenders, is amended to read as follows:

5 (c)(1) The circuit judge may authorize the release under the terms and
6 conditions that he or she determines are necessary to protect the public and
7 to ensure the offender's return to custody upon notice that bed space is
8 available at the ~~Department~~ Division of Correction or the ~~Department~~ Division
9 of Community Correction.

10
11 SECTION 870. Arkansas Code § 16-90-802(d)(9)(B)(ii)(a), concerning the
12 Arkansas Sentencing Commission, is amended to read as follows:

13 (a) Sentences to the ~~Department~~ Division of
14 Correction and ~~Department~~ Division of Community Correction;

15
16 SECTION 871. Arkansas Code § 16-90-802(f) and (g), concerning the
17 Arkansas Sentencing Commission, are amended to read as follows:

18 (f)(1) The commission shall employ ~~an executive~~ a director from
19 candidates presented to it by the Chair of the Arkansas Sentencing Commission
20 in consultation with the Secretary of the Department of Corrections.

21 (2) The ~~Executive~~ Director of the Arkansas Sentencing Commission
22 shall have appropriate training and experience to assist the commission in
23 the performance of its duties.

24 (3) The ~~executive~~ director shall be responsible for compiling
25 the work of the commission and drafting suggested legislation incorporating
26 the commission's findings for submission to the General Assembly.

27 (g)(1) ~~Subject to the approval of the Chair of the Arkansas Sentencing~~
28 ~~Commission, the executive director~~ The secretary shall employ such other
29 staff and shall contract for services as are necessary to assist the
30 commission in the performance of its duties, and as funds permit.

31 (2) The ~~executive director~~ secretary shall ensure that
32 appropriate budgetary measures are taken to employ enough staff or contract
33 for expert services and to purchase the technology needed to compile and
34 process sentencing data from all judicial districts in a timely manner.

35
36 SECTION 872. Arkansas Code § 16-90-1109(a)(1), concerning information

1 related to confinement or commitment, is amended to read as follows:

2 (a)(1) Upon request of the victim, the ~~Department~~ Division of
3 Correction, the Arkansas State Hospital, a local or regional hospital, local
4 or regional mental health facility, or any other facility to which the
5 defendant is committed by the court shall:

6 (A) Promptly inform the victim, through the use of the
7 victim notification system under § 12-12-1201 et seq. or other method of
8 personal communication, of the estimated date of the defendant's release from
9 confinement from a court-ordered commitment under § 5-2-301 et seq., if
10 reasonably ascertainable;

11 (B) Inform the victim at least thirty (30) days before
12 release of the defendant on furlough or to a work release, halfway house, or
13 other community program, if applicable;

14 (C) Inform the victim as soon as possible but preferably
15 at least thirty (30) days before release of the defendant from a local or
16 regional hospital or local or regional mental health facility, if applicable;
17 and

18 (D) Promptly inform the victim of the occurrence of any of
19 the following events concerning the defendant:

20 (i) An escape from a correctional or mental health
21 facility or community program;

22 (ii) A recapture;

23 (iii) A decision of the Governor to commute the
24 sentence or to pardon;

25 (iv) A release from confinement and any conditions
26 attached to the release;

27 (v) A discharge or conditional release or
28 modification of a previously ordered conditional release from a court-ordered
29 commitment under § 5-2-315; or

30 (vi) The defendant's death.

31

32 SECTION 873. Arkansas Code § 16-90-1404(1)(B), concerning the
33 definition of "completion of a person's sentence" under the Comprehensive
34 Criminal Record Sealing Act of 2013, is amended to read as follows:

35 (B) Served any time in county or regional jail, a
36 ~~Department~~ Division of Community Correction facility, or a ~~Department~~

1 Division of Correction facility in full; and

2

3 SECTION 874. Arkansas Code § 16-90-1408(a)(6), concerning felony
4 convictions ineligible for sealing, is amended to read as follows:

5 (6) A felony for which a person served any portion of his or her
6 sentence as an inmate in the ~~Department~~ Division of Correction.

7

8 SECTION 875. Arkansas Code § 16-90-201 is amended to read as follows:

9 16-90-201. Punishment for second or subsequent convictions generally.

10 Any person convicted of an offense which is punishable by imprisonment
11 in the ~~Department~~ Division of Correction who shall subsequently be convicted
12 for another offense shall be punished as follows:

13 (1) If the second offense is such that, upon a first conviction,
14 the offender could be punished by imprisonment for a term less than his or
15 her natural life, then the sentence to imprisonment shall be for a
16 determinate term not less than one (1) year more than the minimum sentence
17 provided by law for a first conviction of the offense for which the defendant
18 is being tried, and not more than the maximum sentence provided by law for
19 this offense, unless the maximum sentence is less than the minimum sentence
20 plus one (1) year, in which case the longer term shall govern;

21 (2) If the third offense is such that, upon a first conviction,
22 the offender could be punished by imprisonment for a term less than his or
23 her natural life, then the person shall be sentenced to imprisonment for a
24 determinate term not less than three (3) years more than the minimum sentence
25 provided by law for a first conviction of the offense for which the defendant
26 is being tried, and not more than the maximum sentence provided by law for
27 the offense, unless the maximum sentence is less than the minimum sentence
28 plus three (3) years, in which case the longer term shall govern; and

29 (3)(A) If the fourth or subsequent offense is such that, upon a
30 first conviction, the offender could be punished by imprisonment for a term
31 less than his or her natural life, then the person shall be sentenced to
32 imprisonment for the fourth or subsequent offense for a determinate term not
33 less than the maximum sentence provided by law for a first conviction of the
34 offense for which the defendant is being tried, and not more than one and
35 one-half ($1\frac{1}{2}$) times the maximum sentence provided by law for a first
36 conviction.

1 (B) However, any person convicted of a fourth or
2 subsequent offense shall be sentenced to imprisonment for no less than five
3 (5) years.
4

5 SECTION 876. Arkansas Code § 16-90-202(a), concerning punishment for a
6 third conviction for certain offenses, is amended to read as follows:

7 (a) When any person shall be convicted of murder, rape, carnal abuse,
8 or kidnapping and it shall be shown that the person has been twice previously
9 convicted of any of the above-mentioned crimes in this state or any other
10 state, upon the third conviction the person shall be deemed an habitual
11 criminal and shall be sentenced to life imprisonment in the ~~Department~~
12 Division of Correction.
13

14 SECTION 877. Arkansas Code § 16-90-401 is amended to read as follows:

15 16-90-401. Delivery of copy of judgment to county sheriff.

16 Where a judgment of confinement, either in the ~~Department~~ Division of
17 Correction or county jail, is pronounced, a certified copy of the judgment
18 must be furnished forthwith to the county sheriff, who shall thereupon
19 execute it, and no other warrant or authority is necessary to its execution.
20

21 SECTION 878. Arkansas Code § 16-90-402 is amended to read as follows:

22 16-90-402. Delivery of defendant and copy of judgment to proper
23 officials.

24 (a)(1) In executing a judgment of confinement, the county sheriff
25 shall deliver the defendant with a certified standardized copy of the
26 sentencing order to the ~~Department~~ Division of Correction, ~~Department~~
27 Division of Community Correction, or to another detention facility, as
28 indicated in the sentencing order.

29 (2) If electronic filing of court records has been implemented
30 by the circuit clerk in the county where the defendant's conviction occurred,
31 the standardized copy of the sentencing order may be electronically
32 transmitted by the circuit clerk to the ~~Department~~ Division of Correction,
33 the ~~Department~~ Division of Community Correction, or to another detention
34 facility, as indicated in the sentencing order.

35 (b) The standardized copy of the sentencing order shall be developed
36 by representatives from the ~~Department~~ Division of Correction, the

1 Administrative Office of the Courts, the Arkansas Sentencing Commission, and
2 the Prosecutor Coordinator's office.

3
4 SECTION 879. Arkansas Code § 16-90-403 is amended to read as follows:

5 16-90-403. Power of county sheriff to prevent escape, etc.

6 In conveying the defendant to the ~~Department~~ Division of Correction,
7 the county sheriff shall have all the powers of preventing an escape, of
8 resisting an effort to rescue the defendant, of recapturing the defendant,
9 and of summoning persons to his or her aid that the county sheriff would have
10 in executing a warrant of arrest in his or her county.

11
12 SECTION 880. Arkansas Code § 16-90-503 is amended to read as follows:

13 16-90-503. Certification of execution.

14 (a) The Director of the ~~Department~~ Division of Correction shall
15 certify the fact of the execution of the condemned felon to the clerk of the
16 court by which the sentence was pronounced, who shall file the certificate
17 with the papers of the case and enter it upon the records of the case.

18 (b) If the office of director is abolished, the duties devolving on
19 him or her shall be performed by any other person selected by any board or
20 commission having charge of the ~~Department~~ Division of Correction.

21
22 SECTION 881. Arkansas Code § 16-90-801(c)(2), concerning the statement
23 of sentencing policy, is amended to read as follows:

24 (2) Commitment to the ~~Department~~ Division of Correction is the
25 most severe sanction and due to the finite capacity of the ~~department's~~
26 division's facilities, it should be reserved for those convicted of the most
27 serious offenses, those who have longer criminal histories, and those who
28 have repeatedly failed to comply with conditions imposed under less
29 restrictive sanctions.

30
31 SECTION 882. Arkansas Code § 16-91-111 is amended to read as follows:

32 16-91-111. Appeal after confinement.

33 (a) If a judgment of confinement in the ~~Department~~ Division of
34 Correction has been executed before the certificate of appeal was delivered
35 to the county sheriff whose duty it was to execute the judgment, the
36 defendant shall remain in the ~~department~~ division during the pendency of the

1 appeal unless discharged by the expiration of his or her term of confinement
2 or by pardon.

3 (b) Upon a reversal, if a new trial is ordered, the defendant shall be
4 removed from the ~~department~~ division to the county jail from which he or she
5 was brought by the county sheriff of the county.

6

7 SECTION 883. Arkansas Code § 16-92-109 is amended to read as follows:

8 16-92-109. Costs and fees – Reimbursement to counties – Definition.

9 (a)(1) As used in this section, “costs incurred by the county” means
10 all costs incurred by the county in bringing to trial or trials any person or
11 persons charged with a felony offense, with a crime committed in furtherance
12 of, or in connection with, an escape from the ~~Department~~ Division of
13 Correction, or with escape from the ~~Department~~ Division of Correction.

14 (2) Costs shall include, but shall not be limited to, salaries
15 and expenses, except normal salaries and expenses incurred by the prosecuting
16 attorney in investigation and prosecution, by the county sheriff in
17 investigation and custody, and by the public defender or court-appointed
18 attorney or attorneys in investigation and defense, as well as all other
19 costs, including the expenses involved in the trial itself.

20 (3) Expenses shall also include extraordinary expenses for such
21 services as witness fees and expenses, court-appointed expert witnesses,
22 reporter fees, costs of preparing transcripts, necessary courtroom security
23 reasonably required to protect the court and participants, and other direct
24 trial costs.

25 (4) Trial shall be deemed to include all pretrial hearings and
26 post-conviction proceedings, if any.

27 (b) Whenever a trial is held in which a crime committed in furtherance
28 of, or in connection with, an escape from the ~~Department~~ Division of
29 Correction is charged or whenever a trial is held for escape from the custody
30 of the ~~Department~~ Division of Correction, the county or counties responsible
31 for the trial or trials of the person or persons charged may apply to the
32 ~~Director~~ Secretary of the Department of Finance and Administration for
33 reimbursement of the total costs incurred by the county or counties in each
34 case.

35 (c)(1) The county responsible for the costs of the felony proceedings
36 or trial on charges of escape or in connection with escape from the

1 ~~Department~~ Division of Correction, shall prepare a statement of all costs
2 incurred in connection with the proceedings, which shall be certified by the
3 presiding judge of the circuit court or courts.

4 (2) The statement of costs incurred by the county or counties
5 shall be sent to the ~~director~~ secretary together with the county's
6 application for reimbursement.

7 (d)(1) The ~~director~~ secretary shall audit and examine all statements
8 of costs incurred by the county received by him or her in accordance with
9 this section and shall determine whether the costs included in the statements
10 comply with the provisions of this section.

11 (2) The ~~director~~ secretary shall cause the amount of such costs
12 as he or she determines comply with this section to be paid to the county or
13 counties from the Trial Expense Assistance Fund, which is established by this
14 section on the books of the Treasurer of State, the ~~director~~ secretary, and
15 the Auditor of State, which shall consist of moneys transferred to the Trial
16 Expense Assistance Fund, as costs are incurred, from the Miscellaneous
17 Revolving Fund.

18 (e) The ~~director~~ secretary may make disbursements from the Trial
19 Expense Assistance Fund to pay court-awarded attorney's fees and costs to
20 court-appointed attorneys for indigent defendants.

21
22 SECTION 884. Arkansas Code § 16-92-112(a), concerning the liability of
23 the state for costs and fees, is amended to read as follows:

24 (a) The costs in all state prosecutions for any offenses which may be
25 committed in or in respect of the ~~Department~~ Division of Correction shall be
26 paid out of the State Treasury.

27
28 SECTION 885. Arkansas Code § 16-93-101(3)(D)(i) and (ii), concerning
29 the definition of "detriment to the community" under the laws governing
30 probation and parole, are amended to read as follows:

31 (i) Demonstrated a documented lack of respect for
32 authority towards law enforcement or prison officials while in the custody of
33 the ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
34 Correction, or a law enforcement agency; or

35 (ii) Accrued multiple disciplinary violations while
36 in the custody of the ~~Department~~ Division of Correction, the ~~Department~~

1 Division of Community Correction, or a law enforcement agency, including at
2 least one (1) disciplinary violation involving violence or sexual assault
3 while in the custody of the ~~Department~~ Division of Correction, the ~~Department~~
4 Division of Community Correction, or a law enforcement agency;

5
6 SECTION 886. Arkansas Code § 16-93-101(6), concerning the definition
7 of "jacket review" under the laws governing probation and parole, is amended
8 to read as follows:

9 (6) "Jacket review" means the review of the file of a transfer-
10 eligible inmate located at any correctional facility in the state by an
11 individual staff member or team of staff members of the ~~Department~~ Division
12 of Community Correction for purposes of preparing the inmate's application
13 for parole consideration by the Parole Board;

14
15 SECTION 887. Arkansas Code § 16-93-101(7), concerning the definition
16 of "parole" under the laws governing probation and parole, is amended to read
17 as follows:

18 (7) "Parole" means the release of the prisoner into the
19 community by the board prior to the expiration of his or her term, subject to
20 conditions imposed by the board and to the supervision of the ~~Department~~
21 Division of Community Correction. When a court or other authority has filed a
22 warrant against the prisoner, the board may release him or her on parole to
23 answer the warrant of the court or authority;

24
25 SECTION 888. Arkansas Code § 16-93-101(8), concerning the definition
26 of "probation" under the laws governing probation and parole, is amended to
27 read as follows:

28 (8) "Probation" means a procedure under which a defendant, found
29 guilty upon verdict or plea, is released by the court without imprisonment,
30 subject to conditions imposed by the court and subject to the supervision of
31 the ~~Department~~ Division of Community Correction, but only if the supervision
32 is requested in writing by the court;

33
34 SECTION 889. Arkansas Code § 16-93-101(9), concerning the definition
35 of "recidivism" under the laws governing probation and parole, is amended to
36 read as follows:

1 (9) "Recidivism" means the return to incarceration in a
2 ~~Department Division~~ of Correction or ~~Department Division~~ of Community
3 Correction community correctional facility other than a technical violator
4 program within a three-year period;

5
6 SECTION 890. Arkansas Code § 16-93-101(11)(A), concerning the
7 definition of "serious conditions violation" under the laws governing
8 probation and parole, is amended to read as follows:

9 (A) An act involving a violent misdemeanor that provides
10 the prosecuting attorney with the option to revoke the probationer's
11 probation or parolee's parole, or allow the ~~Department Division~~ of Community
12 Correction to utilize the sanctions provided under this chapter;

13
14 SECTION 891. Arkansas Code § 16-93-107(a) and (b), concerning the
15 Medicaid eligibility of a parolee or a probationer, are amended to read as
16 follows:

17 (a) The ~~Department Division~~ of Correction shall screen inmates nearing
18 release from incarceration and the ~~Department Division~~ of Community
19 Correction shall screen parolees and probationers under supervision for
20 Medicaid eligibility.

21 (b) If an inmate nearing release from incarceration, parolee, or
22 probationer receives medical services, including substance abuse and mental
23 health treatment, that meet criteria for Medicaid coverage, the parole
24 officer, probation officer, or ~~Department Division~~ of Correction official or
25 ~~Department Division~~ of Community Correction official may apply for Medicaid
26 coverage for the inmate nearing release from incarceration, parolee, or
27 probationer under this section.

28
29 SECTION 892. Arkansas Code § 16-93-107(c)(2), concerning the Medicaid
30 eligibility of a parolee or a probationer, is amended to read as follows:

31 (2) However, the parole officer, probation officer, or
32 ~~Department Division~~ of Correction official or ~~Department Division~~ of
33 Community Correction official shall be the authorized representative for
34 purposes of establishing and maintaining Medicaid eligibility under this
35 subsection if:

36 (A) The inmate nearing release from incarceration,

1 parolee, or probationer does not designate an authorized representative
2 within three (3) business days after request; or

3 (B) The authorized representative designated under
4 subdivision (c)(1) of this section does not file a Medicaid application
5 within three (3) business days after appointment and request.

6
7 SECTION 893. Arkansas Code § 16-93-107(e)(1), concerning the Medicaid
8 eligibility of a parolee or a probationer, is amended to read as follows:

9 (e)(1) The parole officer, probation officer, or ~~Department~~ Division
10 of Correction official or ~~Department~~ Division of Community Correction
11 official or the designee of the parole officer, probation officer, or
12 ~~Department~~ Division of Correction official or ~~Department~~ Division of
13 Community Correction official may access information necessary to determine
14 if a Medicaid application has been filed on behalf of the inmate nearing
15 release from incarceration, parolee, or probationer.

16
17 SECTION 894. Arkansas Code § 16-93-109 is amended to read as follows:

18 16-93-109. Medicaid reimbursement for essential healthcare services.

19 Unless otherwise prohibited by law, the Department of Human Services
20 shall cooperate with the ~~Department~~ Division of Correction and the ~~Department~~
21 Division of Community Correction to establish protocols for utilizing
22 Medicaid to reimburse the ~~Department~~ Division of Correction, ~~Department~~
23 Division of Community Correction, Division of Aging, Adult, and Behavioral
24 Health Services of the Department of Human Services, Division of Youth
25 Services of the Department of Human Services, a healthcare provider, or a
26 third party for essential healthcare services, including mental health and
27 substance abuse treatment.

28
29 SECTION 895. Arkansas Code § 16-93-207(a)(1)(B), concerning the
30 applications for pardon, commutation of sentence, and remission of fines and
31 forfeitures, is amended to read as follows:

32 (B) The Governor shall also direct the ~~Department~~ Division
33 of Correction to send notice of his or her intention to the judge, the
34 prosecuting attorney, and the county sheriff of the county in which the
35 applicant was convicted and, if applicable, to the victim or the victim's
36 next of kin.

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SECTION 896. Arkansas Code § 16-93-208 is amended to read as follows:
16-93-208. Services and equipment.

The ~~Department~~ Division of Correction and the ~~Department~~ Division of Community Correction may provide services, furnishings, equipment, and office space to assist the Parole Board in fulfilling the purposes for which the board was created by law.

SECTION 897. Arkansas Code § 16-93-211(a)(1)(A), concerning early release to transitional housing facilities, is amended to read as follows:

(A) Transferred or paroled from the ~~Department~~ Division of Correction by the Parole Board;

SECTION 898. Arkansas Code § 16-93-211(a)(1)(C), concerning early release to transitional housing facilities, is amended to read as follows:

(C) Administratively transferred from the ~~Department~~ Division of Correction to the ~~Department~~ Division of Community Correction for participation in a reentry program.

SECTION 899. Arkansas Code § 16-93-211(e), concerning early release to transitional housing facilities, is amended to read as follows:

(e) An offender placed in transitional housing by the board will be supervised by officers of the ~~Department~~ Division of Community Correction.

SECTION 900. Arkansas Code § 16-93-213(a)(2), concerning Parole Board records posted to a website, is amended to read as follows:

(2) The ~~Department~~ Division of Correction identification number of the inmate;

SECTION 901. Arkansas Code § 16-93-213(a)(6), concerning Parole Board records posted to a website, is amended to read as follows:

(6) A link to information required to be posted about the inmate by the ~~Department~~ Division of Correction under § 12-27-145.

SECTION 902. Arkansas Code § 16-93-308(b)(2), concerning the revocation of probation, is amended to read as follows:

1 (2) If a defendant on probation is arrested by a probation
2 officer employed by the ~~Department~~ Division of Community Correction for a
3 violation of the defendant's probation and taken to a county jail for a
4 reason listed under subdivision (b)(1)(B) of this section, the state shall
5 reimburse the county for the costs of incarceration at the prevailing rate of
6 reimbursement.

7
8 SECTION 903. Arkansas Code § 16-93-308(c)(1), concerning the
9 revocation of probation, is amended to read as follows:

10 (c)(1) A defendant arrested for violation of suspension of sentence or
11 probation shall be taken immediately before the court that suspended
12 imposition of sentence or, if the defendant was placed on probation, before
13 the court supervising the probation, or, if the defendant is subject to
14 administrative probation sanction under § 16-93-306(d), to the appropriate
15 authority in the ~~Department~~ Division of Community Correction if practicable
16 or, if transport to an appropriate authority of the ~~Department~~ Division of
17 Community Correction is not practicable, then to the county jail.

18
19 SECTION 904. Arkansas Code § 16-93-308(h)(1), concerning the
20 revocation of probation, is amended to read as follows:

21 (h)(1) A court shall not revoke a suspension of sentence or probation
22 because of a person's inability to achieve a high school diploma, high school
23 equivalency diploma approved by the ~~Department of Career Education~~ Adult
24 Education Section of the Division of Workforce Services, or gainful
25 employment.

26
27 SECTION 905. Arkansas Code § 16-93-308(h)(2)(A), concerning the
28 revocation of probation, is amended to read as follows:

29 (2)(A) However, the court may revoke a suspension of sentence or
30 probation if the person fails to make a good faith effort to achieve a high
31 school diploma, high school equivalency diploma approved by the ~~Department of~~
32 ~~Career Education~~ Adult Education Section of the Division of Workforce
33 Services, or gainful employment.

34
35 SECTION 906. Arkansas Code § 16-93-308(h)(2)(B)(i), concerning the
36 revocation of probation, is amended to read as follows:

1 (i) Has been enrolled in a program of instruction
2 leading to a high school diploma or a high school equivalency diploma
3 approved by the ~~Department of Career Education~~ Adult Education Section of the
4 Division of Workforce Services and is attending a school or an adult
5 education course; or

6
7 SECTION 907. Arkansas Code § 16-93-308(i)(1)(B), concerning the
8 revocation of probation, is amended to read as follows:

9 (B)(i) A defendant on probation is subject to having his
10 or her probation revoked and being sentenced to the ~~Department~~ Division of
11 Correction or the ~~Department~~ Division of Community Correction for a
12 subsequent violation of his or her probation if the defendant has been
13 confined six (6) times under § 16-93-306(d).

14 (ii) After a defendant on probation has been
15 confined two (2) times under either § 16-93-306(d) or § 16-93-309(a)(4) for
16 any combination of a technical conditions violation or serious conditions
17 violation for any period of time, the defendant on probation is subject to
18 having his or her probation revoked and being sentenced to the ~~Department~~
19 Division of Correction or the ~~Department~~ Division of Community Correction for
20 a subsequent violation of his or her probation.

21
22 SECTION 908. Arkansas Code § 16-93-308(i)(2)(A), concerning the
23 revocation of probation, is amended to read as follows:

24 (2)(A) A defendant is subject to having his or her probation
25 revoked under this section for a technical conditions violation or a serious
26 conditions violation without having been sanctioned for a period of
27 confinement set out under § 16-93-306(d) or § 16-93-309(a)(4) if upon the
28 filing of a petition in the court with jurisdiction the ~~Department~~ Division
29 of Community Correction or the prosecuting attorney proves by a preponderance
30 of the evidence that the defendant is engaging in or has engaged in behavior
31 that poses a threat to the community.

32
33 SECTION 909. Arkansas Code § 16-93-309(b)(1), concerning probation,
34 revocation hearings, sentence alternatives, and sanctions, is amended to read
35 as follows:

36 (b)(1) A period of confinement under subdivision (a)(4) of this

1 section may be reduced by the ~~Department~~ Division of Correction or the
2 ~~Department~~ Division of Community Correction for good behavior and successful
3 program completion.

4
5 SECTION 910. Arkansas Code § 16-93-309(d)(2), concerning probation,
6 revocation hearings, sentence alternatives, and sanctions, is amended to read
7 as follows:

8 (2) Sentence the defendant to incarceration in the ~~Department~~
9 Division of Correction.

10
11 SECTION 911. Arkansas Code § 16-93-310(b), concerning probation,
12 revocation and community correction programs, is amended to read as follows:

13 (b) Upon revocation, the court of jurisdiction shall determine whether
14 the offender shall remain under the jurisdiction of the court and be assigned
15 to a more restrictive community correction program, facility, or institution
16 for a period of time or committed to the ~~Department~~ Division of Community
17 Correction.

18
19 SECTION 912. Arkansas Code § 16-93-310(c), concerning probation,
20 revocation and community correction programs, is amended to read as follows:

21 (c)(1) If committed to the ~~Department~~ Division of Correction, the
22 court shall specify if the commitment is for judicial transfer of the
23 offender to the ~~Department~~ Division of Community Correction or is a regular
24 commitment.

25 (2)(A) The court shall commit the eligible offender to the
26 custody of the ~~Department~~ Division of Correction under this subchapter for
27 judicial transfer to the ~~Department~~ Division of Community Correction subject
28 to the following:

29 (i) That the sentence imposed provides that the
30 offender shall serve no more than three (3) years of confinement, with credit
31 for meritorious good time, with initial placement in a ~~Department~~ Division of
32 Community Correction facility; and

33 (ii) That the initial placement in the ~~Department~~
34 Division of Community Correction is conditioned upon the offender's
35 continuing eligibility for ~~Department~~ Division of Community Correction
36 placement and the offender's compliance with all applicable rules established

1 by the Board of Corrections for community correction programs.

2 (B) Post-prison supervision shall accompany and follow
3 community correction programming when appropriate.

4
5 SECTION 913. Arkansas Code § 16-93-601(c), concerning felonies
6 committed prior to April 1, 1977, is amended to read as follows:

7 (c) Sentence of Years. An individual sentenced to a term of years in
8 the Department of Correction or the Division of Correction after February 11,
9 1976, and before April 1, 1977, is eligible for release on parole after he or
10 she serves the following terms:

11 (1) An individual sentenced to a term of years for other than a
12 Class Y felony who is confined in the department or division for the second
13 time is eligible for release on parole after he or she serves one-third (1/3)
14 of the time for which sentenced, with credit for good-time allowances, or
15 one-third (1/3) of the time to which sentence is commuted by executive
16 clemency, with credit for good-time allowances. However, a judge may require
17 one-half ($\frac{1}{2}$) of the sentence as imposed, or one-half ($\frac{1}{2}$) of the sentence as
18 commuted by executive clemency, to be served, with credit for good-time
19 allowances; and

20 (2) An individual sentenced to a term of years who is confined
21 in the department or division and who pleads guilty to or is convicted of a
22 Class Y felony or who has previously been confined in the department or
23 division two (2) or more times is eligible for release on parole after he or
24 she serves one-half ($\frac{1}{2}$) of the time to which the sentence is commuted by
25 executive clemency, with credit for good-time allowances.

26
27 SECTION 914. Arkansas Code § 16-93-607(d), concerning parole
28 eligibility and felonies committed on or after April 1, 1983, but before
29 January 1, 1994, is amended to read as follows:

30 (d) Any person under twenty-one (21) years of age who is first
31 convicted of a felony and committed to the first offender penal institution
32 or to the Department of Correction, as the Division of Correction was known
33 as prior to July 1, 2019, now known as the Division of Correction, for a term
34 of years is eligible for parole at any time unless a minimum time to be
35 served is imposed consisting of not more than one-third (1/3) of the total
36 time sentenced. In the event the individual is sentenced to a minimum time to

1 be served, he or she is eligible for release on parole after serving the
2 minimum time prescribed, with credit for good-time allowances, and for
3 commutation by the exercise of executive clemency.

4
5 SECTION 915. Arkansas Code § 16-93-607(e), concerning parole
6 eligibility and felonies committed on or after April 1, 1983, but before
7 January 1, 1994, is amended to read as follows:

8 (e)(1) When any convicted felon, while on parole, is convicted of
9 another felony, the felon is to be committed to the ~~department~~ Division of
10 Correction to serve the remainder of his or her original sentence, including
11 any portion suspended, with credit for good-time allowances. Upon conviction
12 for the subsequent felony, the court shall require the sentence for the
13 subsequent felony to be served consecutively with the sentence for the
14 previous felony.

15 (2) Any person found guilty of a felony and placed on probation
16 or suspended sentence therefor who is subsequently found guilty of another
17 felony committed while on probation or suspended sentence is to be committed
18 to the ~~department~~ division to serve the remainder of his or her suspended
19 sentence plus the sentence imposed for the subsequent felony. The sentence
20 imposed for the subsequent felony is to be served consecutively with the
21 remainder of the suspended sentence.

22
23 SECTION 916. Arkansas Code § 16-93-610(a), concerning the computation
24 of sentence, is amended to read as follows:

25 (a) Time served is deemed to begin on the day sentence is imposed, not
26 on the day a prisoner is received by the Department of ~~Correction~~
27 Corrections. It shall continue only during the time in which a prisoner is
28 actually confined in a county jail or other local place of lawful confinement
29 or while under the custody and supervision of the department.

30
31 SECTION 917. Arkansas Code § 16-93-612(a), concerning parole
32 eligibility and the date of offense, is amended to read as follows:

33 (a) A person's parole eligibility shall be determined by the laws in
34 effect at the time of the offense for which he or she is sentenced to the
35 ~~Department~~ Division of Correction.

36

1 SECTION 918. Arkansas Code § 16-93-612(e)(4), concerning parole
2 eligibility and the date of offense, is amended to read as follows:

3 (4) If the felony was committed by a person who was a minor at
4 the time of the offense, he or she was committed to the Department of
5 Correction, or to the Division of Correction, and the offense occurred
6 before, on, or after March 20, 2017, § 16-93-621 governs that person's parole
7 eligibility.

8
9 SECTION 919. Arkansas Code § 16-93-614(c)(2), concerning parole
10 eligibility for offenses committed after January 1, 1994, is amended to read
11 as follows:

12 (2)(A)(i)(a) An offender convicted of a target offense under the
13 Community Correction Act, § 16-93-1201 et seq., may be committed to the
14 ~~Department~~ Division of Correction and judicially transferred to the
15 ~~Department~~ Division of Community Correction by specific provision in the
16 commitment that the trial court order such a transfer.

17 (b) No other offender is eligible for transfer
18 to a ~~Department~~ Division of Community Correction facility.

19 (ii) A copy of the commitment shall be forwarded
20 immediately to the ~~Department~~ Division of Correction and to the ~~Department~~
21 Division of Community Correction.

22 (iii) In the event that an offender is sentenced to
23 the ~~Department~~ Division of Correction without judicial transfer on one (1)
24 sentence and concurrently sentenced to the ~~Department~~ Division of Correction
25 with judicial transfer on another sentence, the offender shall remain in the
26 ~~Department~~ Division of Correction, and the sentence with judicial transfer
27 may be discharged in the same manner as that of an offender transferred back
28 to the ~~Department~~ Division of Correction.

29 (B) The ~~Department~~ Division of Community Correction shall
30 take over supervision of the offender in accordance with the order of the
31 court.

32 (C) The ~~Department~~ Division of Community Correction shall
33 provide for the appropriate disposition of the offender as expeditiously as
34 practicable under rules and regulations developed by the Board of
35 Corrections.

36 (D) The offender shall not be transported to the

1 ~~Department~~ Division of Correction on the initial placement in a ~~Department~~
2 Division of Community Correction facility pursuant to a judicial transfer.

3 (E) An offender who is transferred back to the ~~Department~~
4 Division of Correction for disciplinary reasons may be considered for
5 transfer to ~~Department~~ Division of Community Correction supervision after
6 earning good-time credit equal to one-half ($\frac{1}{2}$) of the remainder of his or her
7 sentence.

8 (F) An offender who is sentenced after July 31, 2007, and
9 who is transferred back to the ~~Department~~ Division of Correction for
10 administrative reasons is eligible for transfer to ~~Department~~ Division of
11 Community Correction supervision in the same manner as an offender who is
12 sentenced to the ~~Department~~ Division of Correction without a judicial
13 transfer to the ~~Department~~ Division of Community Correction; and
14

15 SECTION 920. Arkansas Code § 16-93-616(a), concerning parole
16 eligibility procedures for offenses committed after January 1, 1994 and the
17 computation of a sentence, is amended to read as follows:

18 (a)(1) Time served for a sentence shall be deemed to begin on the day
19 sentence is imposed, not on the day a prisoner is received by the ~~Department~~
20 Division of Correction.

21 (2) Time served shall continue only during the time in which an
22 individual is actually confined in a county jail or other local place of
23 lawful confinement or while under the custody and supervision of the
24 ~~department~~ division.

25 (3) Once sentenced to the ~~department~~ division, the ~~department~~
26 division shall retain legal custody of the inmate for the duration of the
27 original sentence.
28

29 SECTION 921. Arkansas Code § 16-93-617(b) and (c), concerning parole
30 eligibility procedures for offenses committed after January 1, 1994 and
31 revocation of transfer, is amended to read as follows:

32 (b)(1) In the event an offender transferred under this section and §§
33 16-93-614 – 16-93-616, or § 16-93-618 is found to be or becomes ineligible
34 for transfer into a ~~Department~~ Division of Community Correction facility, he
35 or she shall be transported to ~~Department~~ Division of Correction to serve the
36 remainder of his or her sentence.

1 (2) Notice of the ineligibility and the reasons therefor shall
2 be provided to the offender, and a hearing may be requested before the board
3 if the offender contests the factual basis of the ineligibility. Otherwise,
4 the board may administratively approve the transfer to the ~~Department~~
5 Division of Correction.

6 (c) An offender who is judicially transferred to a ~~Department~~ Division
7 of Community Correction facility and subsequently transferred back to the
8 ~~Department~~ Division of Correction by the board for disciplinary or
9 administrative reasons may not become eligible for any further transfer under
10 § 16-93-614(c)(2)(E) and (F).

11
12 SECTION 922. Arkansas Code § 16-93-621(a)(1) and (2)(A), concerning
13 parole eligibility for a person who was a minor at the time of committing
14 offense, is amended to read as follows:

15 16-93-621. Parole eligibility – A person who was a minor at the time
16 of committing an offense that was committed before, on, or after March 20,
17 2017.

18 (a)(1) A minor who was convicted and sentenced to the Department of
19 Correction or Division of Correction for an offense committed before he or
20 she was eighteen (18) years of age and in which the death of another person
21 did not occur is eligible for release on parole no later than after twenty
22 (20) years of incarceration, including any applicable sentencing
23 enhancements, and including an instance in which multiple sentences are to be
24 served consecutively or concurrently, unless by law the minor is eligible for
25 earlier parole eligibility.

26 (2)(A) A minor who was convicted and sentenced to the ~~department~~
27 Department of Correction or Division of Correction for an offense committed
28 before he or she was eighteen (18) years of age, in which the death of
29 another person occurred, and that was committed before, on, or after March
30 20, 2017, is eligible for release on parole no later than after twenty-five
31 (25) years of incarceration if he or she was convicted of murder in the first
32 degree, § 5-10-102, or no later than after thirty (30) years of incarceration
33 if he or she was convicted of capital murder, § 5-10-101, including any
34 applicable sentencing enhancements, unless by law the minor is eligible for
35 earlier parole eligibility.

36

1 SECTION 923. Arkansas Code § 16-93-701(a)(1), concerning Parole Board
2 authority to grant parole, is amended to read as follows:

3 (a)(1) The Parole Board may release on parole any eligible inmate who
4 is confined in any correctional institution administered by the ~~Department~~
5 Division of Correction or the ~~Department~~ Division of Community Correction,
6 when in the board's opinion there is a reasonable probability that the inmate
7 can be released without detriment to the community or himself or herself and
8 is able and willing to fulfill the obligations of a law-abiding citizen.

9
10 SECTION 924. Arkansas Code § 16-93-703(a), concerning Parole Board
11 place of hearing and procedures, is amended to read as follows:

12 (a) The Parole Board shall not schedule parole hearings at which
13 victims or relatives of victims of crime are invited to appear at a facility
14 wherein inmates are housed other than the Central Administration Building of
15 the ~~Department~~ Division of Correction at Pine Bluff.

16
17 SECTION 925. Arkansas Code § 16-93-705(a)(1)(A)(ii), concerning
18 revocation of parole, is amended to read as follows:

19 (ii) The ~~Department~~ Division of Community Correction
20 shall provide the information necessary for the board to issue a warrant
21 under subdivision (a)(1)(A)(i) of this section.

22
23 SECTION 926. Arkansas Code § 16-93-705(a)(1)(B)(ii), concerning
24 revocation of parole, is amended to read as follows:

25 (ii) The ~~Department~~ Division of Community Correction
26 shall provide the information necessary for the board to issue a warrant
27 under subdivision (a)(1)(B)(i) of this section.

28
29 SECTION 927. Arkansas Code § 16-93-705(b)(5) and (6), concerning
30 revocation of parole, are amended to read as follows:

31 (5) If the parole revocation judge finds that there is
32 reasonable cause to believe that the parolee has violated a condition of
33 parole, the parole revocation judge may order the parolee returned to the
34 nearest facility of the ~~Department~~ Division of Correction or ~~Department~~
35 Division of Community Correction where the parolee shall be placed in custody
36 for a parole revocation hearing before the board.

1 (6) If the parole revocation judge finds that there is
2 reasonable cause to believe that the parolee has violated a condition of
3 parole, the parole revocation judge may return the parolee to parole
4 supervision rather than to the custody of the ~~Department~~ Division of
5 Correction and may impose additional supervision conditions in response to
6 the violating conduct.

7
8 SECTION 928. Arkansas Code § 16-93-705(f), concerning revocation of
9 parole, are amended to read as follows:

10 (f) A preliminary hearing under subsection (b) of this section and a
11 parole revocation hearing under subsection (c) of this section shall not be
12 necessary if the parole revocation is based on the parolee's conviction,
13 guilty plea, or plea of nolo contendere to a felony offense for which he or
14 she is sentenced to the ~~Department~~ Division of Correction or to any other
15 state or federal correctional institution.

16
17 SECTION 929. Arkansas Code § 16-93-706(b), concerning the revocation
18 of parole and the subpoena of witnesses and documents, is amended to read as
19 follows:

20 (b) The fees and mileage expenses as prescribed by law for witnesses
21 in civil cases shall be paid by the ~~Department~~ Division of Correction.

22
23 SECTION 930. Arkansas Code § 16-93-709 is amended to read as follows:
24 16-93-709. Sex offender may not reside with minors.

25 (a) Whenever an inmate in a facility of the ~~Department~~ Division of
26 Correction who has been found guilty of or has pleaded guilty or nolo
27 contendere to any sexual offense defined in § 5-14-101 et seq., or incest as
28 defined by § 5-26-202, and the sexual offense or incest was perpetrated
29 against a minor, becomes eligible for parole and makes application for
30 release on parole, the Parole Board shall prohibit, as a condition of
31 granting the parole, the parolee from residing upon parole in a residence
32 with any minor, unless the board makes a specific finding that the inmate
33 poses no danger to the minors residing in the residence.

34 (b) If the board, upon a hearing under § 16-93-705, finds, by a
35 preponderance of the evidence, that the parolee has failed to comply with
36 this condition of parole, the parole may be revoked and the parolee returned

1 to the custody of the ~~department~~ division.

2
3 SECTION 931. Arkansas Code § 16-93-710(a), concerning parole for
4 inmates who have served their term of imprisonment in a county jail prior to
5 being processed into the Department of Correction, is amended to read as
6 follows:

7 (a)(1) Subject to conditions set by the Parole Board, an offender
8 convicted of a felony and sentenced to a term of imprisonment of two (2)
9 years or less in the ~~Department~~ Division of Correction, and who has served
10 his or her term of imprisonment in a county jail prior to being processed
11 into the ~~Department~~ Division of Correction, may be paroled from the
12 ~~Department~~ Division of Correction county jail backup facility directly to the
13 ~~Department~~ Division of Community Correction under parole supervision, and
14 upon eligibility determination, processed for release by the board.

15 (2) Transfer release proceedings or a preliminary review under
16 this subchapter shall begin no later than six (6) months prior to a person's
17 transfer eligibility date, and the board shall authorize jacket review
18 procedures at all institutions holding parole-eligible inmates to prepare
19 parole applications to comply with this time frame.

20 (3) The jacket review will be conducted by staff either from the
21 ~~Department~~ Division of Community Correction or by ~~Department~~ Division of
22 Correction.

23
24 SECTION 932. Arkansas Code § 16-93-712(b)(1), concerning Parole Board
25 supervision of a parolee, is amended to read as follows:

26 (1) Investigate each case referred to him or her by the Chair of
27 the Parole Board, the ~~Department~~ Division of Community Correction, or the
28 prosecuting attorney;

29
30 SECTION 933. Arkansas Code § 16-93-712(c), concerning Parole Board
31 supervision of a parolee, is amended to read as follows:

32 (c)(1) The ~~Department~~ Division of Community Correction shall allocate
33 resources, including the assignment of parole officers, to focus on moderate-
34 risk and high-risk offenders as determined by the validated risk-needs
35 assessment provided in subdivision (b)(6) of this section.

36 (2) The ~~Department~~ Division of Community Correction shall

1 require each public and private treatment and service provider that receives
2 state funds for the treatment of or service for parolees to use evidence-
3 based programs and practices.

4
5 SECTION 934. Arkansas Code § 16-93-712(d)(1) and (2), concerning
6 Parole Board supervision of a parolee, are amended to read as follows:

7 (d)(1) The ~~Department~~ Division of Community Correction shall have the
8 authority to sanction a parolee administratively without engaging the
9 revocation process under § 16-93-705.

10 (2)(A)(i) The ~~Department~~ Division of Community Correction shall
11 develop an intermediate sanctions procedure and grid to guide a parole
12 officer in determining the appropriate response to a violation of conditions
13 of supervision.

14 (ii) The intermediate sanctions procedure shall
15 include a requirement that the parole officer consider multiple factors when
16 determining the sanction to be imposed, including previous violations and
17 sanctions and the severity of the current and prior violation.

18 (B) Intermediate sanctions administered by the ~~Department~~
19 Division of Community Correction are required to conform to the sanctioning
20 grid.

21
22 SECTION 935. Arkansas Code § 16-93-712(d)(3)(E)(i), concerning Parole
23 Board supervision of parolee, is amended to read as follows:

24 (E)(i) Incarceration in a county jail for no more than
25 seven (7) days or incarceration in a ~~Department~~ Division of Community
26 Correction facility or ~~Department~~ Division of Correction facility for no more
27 than one hundred eighty (180) days.

28
29 SECTION 936. Arkansas Code § 16-93-712(d)(3)(E)(ii)(b)-(d), concerning
30 Parole Board supervision of parolee, are amended to read as follows:

31 (b) A parolee shall accumulate no more than
32 twenty-one (21) days' incarceration in a county jail or no more than three
33 hundred sixty (360) days' incarceration in a ~~Department~~ Division of Community
34 Correction facility or ~~Department~~ Division of Correction facility as an
35 intermediate sanction before the parole officer recommends a violation of the
36 person's parole under § 16-93-706.

1 (c) A parolee is subject to a period of
2 incarceration of:

3 (1) Up to ninety (90) days in a
4 ~~Department~~ Division of Community Correction facility or ~~Department~~ Division
5 of Correction facility for a technical conditions violation; and

6 (2) Exactly one hundred eighty (180)
7 days in a ~~Department~~ Division of Community Correction or ~~Department~~ Division
8 of Correction facility for a serious conditions violation.

9 (d) A parolee may not be incarcerated more
10 than two (2) times as a parole sanction in a ~~Department~~ Division of Community
11 Correction facility or ~~Department~~ Division of Correction facility.

12
13 SECTION 937. Arkansas Code § 16-93-712(f)(1), concerning Parole Board
14 supervision of a parolee, is amended to read as follows:

15 (1) May be reduced by the ~~Department~~ Division of Correction or
16 the ~~Department~~ Division of Community Correction for good behavior and
17 successful program completion; and

18
19 SECTION 938. Arkansas Code § 16-93-715(a)(2)(A), concerning parole
20 violations, technical conditions, violations, and serious conditions is
21 amended to read as follows:

22 (2)(A) A period of confinement under subdivision (a)(1) of this
23 section may be reduced by the ~~Department~~ Division of Correction or the
24 ~~Department~~ Division of Community Correction for good behavior and successful
25 program completion.

26
27 SECTION 939. Arkansas Code § 16-93-715(b)(2), concerning parole
28 violations, technical conditions, violations, and serious conditions is
29 amended to read as follows:

30 (2)(A) A parolee is subject to having his or her parole revoked
31 and being returned to the ~~Department~~ Division of Correction or the ~~Department~~
32 Division of Community Correction for the next violation of his or her parole
33 if the parolee has been confined six (6) times under § 16-93-712(d).

34 (B) After a parolee has been confined two (2) times under
35 subdivision (a)(1) of this section for any combination of a technical
36 conditions violation or serious conditions violation for any period of time,

1 the parolee is subject to having his or her parole revoked and being returned
2 to the ~~Department~~ Division of Correction or the ~~Department~~ Division of
3 Community Correction for the next violation of his or her parole.

4 (C) A parolee is subject to having his or her parole
5 revoked and being returned to the ~~Department~~ Division of Correction or the
6 ~~Department~~ Division of Community Correction under this section without having
7 been sanctioned for a period of confinement set out under § 16-93-712(d) or
8 subdivision (a)(1) of this section if the Parole Board determines by a
9 preponderance of the evidence that the parolee is engaging in or has engaged
10 in behavior that poses a threat to the community.

11
12 SECTION 940. Arkansas Code § 16-93-715(e), concerning parole
13 violations, technical conditions, violations, and serious conditions is
14 amended to read as follows:

15 (e) Noncompliance with ~~Department~~ Division of Correction or ~~Department~~
16 Division of Community Correction program requirements or violent or sexual
17 behavior while confined for a technical conditions violation or serious
18 conditions violation under this section may result in revocation of the
19 parolee's parole for a period of time exceeding the limitations of
20 subdivision (a)(1) of this section, up to and including the time remaining on
21 the person's original sentence.

22
23 SECTION 941. Arkansas Code § 16-93-1202(4)-(8), concerning definitions
24 under the laws concerning community corrections, are amended to read as
25 follows:

26 (4) "~~Department~~ Division of Community Correction" means the
27 administrative structure in place to oversee the development and operation of
28 community correction facilities, programs, and services, including probation
29 and parole supervision;

30 (5) "~~Department~~ Division of Correction" means the administrative
31 structure in place to oversee the daily operation of secure prison
32 facilities;

33 (6) "Eligibility" or "eligible offender" means any person
34 convicted of a felony who is by law eligible for such sentence or who is
35 otherwise under the supervision of the ~~Department~~ Division of Community
36 Correction and who falls within the population targeted by the General

1 Assembly for inclusion in community correction facilities and who has not
2 been subject to a disciplinary violation for a violent act or for sexual
3 misconduct while in the custody of a jail or correctional facility and does
4 not have a current or previous conviction for a violent or sexual offense
5 listed under subdivision (10)(A)(iii) of this section;

6 (7) "Incarceration" means commitment to the ~~Department~~ Division
7 of Correction;

8 (8) "Supervision" means direct supervision at varying levels of
9 intensity by either probation officers, in the case of sentences to probation
10 with a condition of community correction, or parole and post prison
11 supervision officers, in the case of offenders eligible for release on parole
12 or offenders transferred to community correction or community supervision
13 from the ~~Department~~ Division of Correction;

14

15 SECTION 942. Arkansas Code § 16-93-1202(10)(C), concerning definition
16 of "target group" under the laws concerning community corrections, is amended
17 to read as follows:

18 (C) Final determination of eligibility for placement in
19 any community correction center or program is the responsibility of the
20 ~~Department~~ Division of Community Correction;

21

22 SECTION 943. Arkansas Code § 16-93-1202(12), concerning definition of
23 "transfer date" under the laws concerning community corrections, is amended
24 to read as follows:

25 (12)(A) "Transfer date" means the earliest date on which an
26 offender is eligible for transfer from the ~~Department~~ Division of Correction
27 to the ~~Department~~ Division of Community Correction.

28 (B) The date may be extended based on disciplinary
29 behavior while under the custody of the ~~Department~~ Division of Correction;
30 and

31

32 SECTION 944. Arkansas Code § 16-93-1202(13), concerning definition of
33 "trial court" under the laws concerning community corrections, is amended to
34 read as follows:

35 (13) "Trial court" means any court of this state having
36 jurisdiction of an eligible offender and the power to sentence the eligible

1 offender to the included options, subject to eligibility determination by the
2 ~~Department~~ Division of Community Correction.

3
4 SECTION 945. Arkansas Code § 16-93-1203(1), concerning power and
5 duties of the Board of Corrections, is amended to read as follows:

6 (1) Establish community correction programs to which eligible
7 offenders may be assigned as a condition of probation, sentenced to by the
8 trial court pursuant to this subchapter, paroled to upon release from
9 incarceration, or transferred to after incarceration in the ~~Department~~
10 Division of Correction;

11
12 SECTION 946. Arkansas Code § 16-93-1203(6), concerning power and
13 duties of the Board of Corrections, is amended to read as follows:

14 (6) Direct the departments, divisions, and other entities
15 involved in the implementation of community correction options in a manner
16 that will promote the safety and welfare of the people of this state;

17
18 SECTION 947. Arkansas Code § 16-93-1207(a)(1)(A) and (B), concerning
19 order of commitment by the court, are amended to read as follows:

20 (A) Committed to the ~~Department~~ Division of Correction;

21 (B) Committed to the ~~Department~~ Division of Correction
22 with judicial transfer to the ~~Department~~ Division of Community Correction;

23
24 SECTION 948. The introductory language of Arkansas Code § 16-93-
25 1207(b)(1), concerning order of commitment by the court, is amended to read
26 as follows:

27 (b)(1) Upon the successful completion of probation or a commitment to
28 the ~~Department~~ Division of Correction with judicial transfer to the
29 ~~Department~~ Division of Community Correction or a commitment to a county jail
30 for one (1) of the offenses targeted by the General Assembly for community
31 correction placement, the court may direct that the record of the offender be
32 sealed with regards to the offense of which the offender was either convicted
33 or placed on probation under the condition that the offender has no more than
34 one (1) previous felony conviction and that the previous felony was other
35 than a conviction for:

36

1 SECTION 949. Arkansas Code § 16-93-1208 is amended to read as follows:
2 16-93-1208. Post commitment transfer.

3 (a)(1)(A) Upon commitment of an eligible offender to the ~~Department~~
4 Division of Correction, the ~~Department~~ Division of Correction will transfer
5 the eligible offender to a community correction program, when he or she
6 reaches his or her transfer date, in accordance with the rules and
7 regulations promulgated by the Board of Corrections and conditions set by the
8 Parole Board.

9 (B) Legal custody of inmates transferred to the ~~Department~~
10 Division of Community Correction shall remain with the ~~Department~~ Division of
11 Correction unless altered by court order.

12 (2) A person eligible for release from incarceration on parole
13 may be placed in community correction programming while under parole
14 supervision upon the recommendation of the condition by the releasing
15 authority.

16 (b)(1) The Board of Corrections and the ~~Department~~ Division of
17 Correction are authorized to release medical and psychological data in their
18 possession to a community correction service provider concerning an eligible
19 offender transferred to that community correction program.

20 (2) The community correction service provider shall use any
21 medical or psychological data received from the ~~Department~~ Division of
22 Correction and the Board of Corrections in compliance with rules concerning
23 the use of that data as adopted by the Board of Corrections.

24
25 SECTION 950. Arkansas Code § 16-93-1209 is amended to read as follows:
26 16-93-1209. Liability.

27 The ~~Department~~ Division of Correction, the Board of Corrections, the
28 ~~Department~~ Division of Community Correction, the Parole Board, and all
29 governmental agencies and units utilizing eligible offenders in community
30 correction programs as defined in this subchapter are immune from liability
31 and suit for damages, and no tort action shall lie against the ~~Department~~
32 Division of Correction, the Board of Corrections, the ~~Department~~ Division of
33 Community Correction, the Parole Board, and any governmental agency or unit
34 or any of their employees because of any acts of eligible offenders utilized
35 under the provisions of this subchapter.

36

1 SECTION 951. Arkansas Code § 16-93-1602(3)(A), concerning the
2 definition of "transitional housing" under the laws concerning traditional
3 housing facilities, is amended to read as follows:

4 (3)(A) "Transitional housing" means a program that provides
5 housing for one (1) or more offenders who either have been transferred or
6 paroled from the ~~Department~~ Division of Correction by the Parole Board or
7 placed on probation by a circuit court or district court.

8
9 SECTION 952. Arkansas Code § 16-95-105 is amended to read as follows:
10 16-95-105. Escape – Penalty.

11 Any prisoner who shall escape from custody while in another state or
12 jurisdiction pursuant to the Agreement on Detainers shall be guilty of a
13 felony and upon conviction shall be sentenced to a term of not less than
14 three (3) years nor more than five (5) years in the ~~Department~~ Division of
15 Correction.

16
17 SECTION 953. Arkansas Code § 16-98-303(a)(5), concerning authorization
18 of drug court programs, is amended to read as follows:

19 (5) As determined by the ~~Department~~ Division of Community
20 Correction, an adult drug court program established under this section shall
21 target high-risk offenders and medium-risk offenders.

22
23 SECTION 954. Arkansas Code § 16-98-303(b)(1) and (2), concerning
24 authorization of drug court programs, are amended to read as follows:

25 (b)(1) A drug court program shall incorporate services from the
26 ~~Department~~ Division of Community Correction, the Department of Human
27 Services, and the Administrative Office of the Courts.

28 (2) Subject to an appropriation, funding, and position
29 authorization, both programmatic and administrative, and subject to the
30 requirements of eligibility as defined in § 16-93-1202, the ~~Department~~
31 Division of Community Correction:

32 (A) Shall:

33 (i) Establish standards regarding the classification
34 of a drug court program participant as a high-risk offender or medium-risk
35 offender;

36 (ii) Provide positions for persons to serve as

1 probation officers, drug counselors, and administrative assistants;

2 (iii) Provide for drug testing for drug court
3 program participants;

4 (iv) Provide for intensive outpatient treatment for
5 drug court program participants;

6 (v) Provide for intensive short-term and long-term
7 residential treatment for drug court program participants; and

8 (vi) Develop clinical assessment capacity, including
9 drug testing, to identify a drug court program participant with a substance
10 addiction and develop a treatment protocol that improves the drug court
11 program participant's likelihood of success; and

12 (B) May:

13 (i) Provide for continuous alcohol monitoring for
14 drug court program participants, including a minimum period of one hundred
15 twenty (120) days; and

16 (ii) Develop clinical assessment capacity, including
17 continuous alcohol monitoring, to identify a drug court program participant
18 with a substance addiction and develop a treatment protocol that improves the
19 drug court program participant's likelihood of success.

20
21 SECTION 955. Arkansas Code § 16-98-303(b)(4)(E)(iii), concerning
22 authorization of drug court programs, are amended to read as follows:

23 (iii) Existing drug treatment programs currently in
24 place and operating through the courts, the county jail, or the ~~Department~~
25 Division of Correction; and

26
27 SECTION 956. Arkansas Code § 16-98-303(e)(2)-(4), concerning the
28 authorization of drug court programs, are amended to read as follows:

29 (2) ~~Department of Education~~ Division of Elementary and Secondary
30 Education;

31 (3) ~~Department of Career Education~~ Adult Education Section of
32 the Division of Workforce Services;

33 (4) ~~Department~~ Division of Community Correction; and

34
35 SECTION 957. Arkansas Code § 16-98-303(f)(2), concerning authorization
36 of drug court programs, are amended to read as follows:

1 (2) Serve as a coordinator between drug court judges, the
2 ~~Department~~ Division of Community Correction, the Division of Aging, Adult,
3 and Behavioral Health Services of the Department of Human Services, private
4 treatment provider representatives, and public health advocates;

5
6 SECTION 958. Arkansas Code § 16-99-101 is amended to read as follows:

7 16-99-101. Purpose and intent.

8 (a) Both state and local agencies that implement criminal justice
9 practices resulting in outcomes that reduce commitments to the ~~Department~~
10 Division of Correction should be rewarded.

11 (b) If a state agency, county, or judicial district has implemented
12 proven risk-reduction strategies that reduce the number of offenders
13 returning to the ~~Department~~ Division of Correction with no resultant increase
14 in the crime rate; then, in order to reward the state agency, county, or
15 judicial district and as an incentive to encourage similar practices
16 elsewhere, the state agency, county, or judicial district should receive a
17 monetary reward to continue those practices.

18 (c) The award would represent a portion of the monetary savings from
19 the costs that would have been incurred had the state agency, county, or
20 judicial district not reduced its impact on the ~~Department~~ Division of
21 Correction.

22 (d) The goal of this subchapter is to align state and local fiscal
23 incentives by rewarding the ~~Department~~ Division of Community Correction,
24 county governments, and judicial districts for each entity's role in reducing
25 its impact on the ~~Department~~ Division of Correction.

26
27 SECTION 959. Arkansas Code § 16-99-102 is amended to read as follows:

28 16-99-102. Program authorized – Administration.

29 (a) Costs averted due to a reduction in commitments to the ~~Department~~
30 Division of Correction or a reduction in the period of time served in the
31 ~~Department~~ Division of Correction, to the extent possible, shall be
32 reinvested into those state agencies, counties, or judicial districts as an
33 incentive to further the crime and recidivism reduction strategies being
34 employed.

35 (b) The ~~Department~~ Division of Community Correction shall be the
36 recipient of incentive funds upon meeting the requirements set out in this

1 subchapter.

2 (c)(1) Counties, multicounty partnerships, and judicial districts
3 shall be eligible to apply for participation in the performance incentive
4 funding program set out in this subchapter on the reduction in the ~~Department~~
5 Division of Correction's population.

6 (2) Participation in the program will be determined through a
7 competitive grant process.

8 (d) The Board of Corrections shall have the authority to manage the
9 program and administer the grant funds to appropriate applicants and the
10 ~~Department~~ Division of Community Correction.

11 (e)(1) Subject to the available funding, the ~~Department~~ Division of
12 Community Correction shall manage and administer grant funds to itself and
13 counties, multicounty partnerships, and judicial districts in order to
14 implement the policies and programs authorized by this program.

15 (2) These shall be one-time-only grants not contingent on
16 measured performance.

17 (3) All future funding under this section shall be tied to
18 measured performance.

19

20 SECTION 960. Arkansas Code § 16-99-103(a)(1), concerning an
21 application for parole revocation, is amended to read as follows:

22 (a)(1) The ~~Department~~ Division of Community Correction shall receive
23 additional funding for committing to a reduction in the number of probation
24 revocations that result from a technical violation or a new crime.

25

26 SECTION 961. Arkansas Code § 16-99-103(a)(4) and (5), concerning an
27 application for parole revocation, are amended to read as follows:

28 (4) Each year the ~~Department~~ Division of Community Correction
29 shall receive additional funds for reducing the net impact of revocations on
30 the ~~Department~~ Division of Correction.

31 (5) The ~~Department~~ Division of Community Correction shall
32 promulgate rules and regulations for the distribution and use of incentive
33 funds that it receives, requiring that:

34 (A) No less than one-third (1/3) of the funds received
35 each year are distributed to the individual probation or parole areas
36 responsible for the revocation reductions while maintaining or improving

1 public safety; and

2 (B) All of the funds received by the ~~Department~~ Division
3 of Community Correction are invested in programs and practices designed to
4 reduce recidivism.

5
6 SECTION 962. Arkansas Code § 16-99-103(b)(1), concerning an
7 application for parole revocation, is amended to read as follows:

8 (b)(1) A competitive grant process will distribute grants to five (5)
9 individual counties, multicounty partnerships, or judicial districts that
10 meet criteria established to improve public safety and reduce their net
11 impact on the ~~Department~~ Division of Correction.

12

13 SECTION 963. Arkansas Code § 16-99-103(b)(4)-(6), concerning an
14 application for parole revocation, are amended to read as follows:

15 (4) Four (4) of the five (5) grants shall be awarded to the
16 counties, multicounty partnerships, or judicial districts with the largest
17 number of annual ~~Department~~ Division of Correction commitments that meet the
18 program criteria and submit acceptable applications.

19 (5) One (1) grant shall be awarded to a county, multicounty
20 partnership, or judicial district representing a rural region of the state,
21 notwithstanding the number of ~~Department~~ Division of Correction commitments
22 from the applicant so long as the program criteria are met and the
23 application is acceptable.

24 (6) Each year, the grant recipient shall receive additional
25 funds equal to one-half ($\frac{1}{2}$) of the averted costs for reducing the net impact
26 of its sentences on the ~~Department~~ Division of Correction.

27

28 SECTION 964. Arkansas Code § 16-99-104(2), concerning the
29 implementation of rules by the Board of Corrections, is amended to read as
30 follows:

31 (2) Calculate and determine the baseline for the ~~Department~~
32 Division of Community Correction's revocation rate and for the ~~Department~~
33 Division of Correction's commitments' length of stay for evaluation purposes;
34 and

35

36 SECTION 965. Arkansas Code § 16-99-105(a)(1), concerning reporting and

1 data collection by the Department of Community Correction, is amended to read
2 as follows:

3 (a)(1) The ~~Department~~ Division of Community Correction shall provide
4 data and information as requested by the Board of Corrections.

5

6 SECTION 966. Arkansas Code § 16-99-105(a)(2)(A), concerning reporting
7 and data collection by the Department of Community Correction, is amended to
8 read as follows:

9 (A) The total number of probationers from each of
10 ~~Department~~ Division of Community Correction's individual probation or parole
11 areas for the current year and previous years, as available;

12

13 SECTION 967. Arkansas Code § 16-99-105(a)(2)(C), concerning reporting
14 and data collection by the Department of Community Correction, is amended to
15 read as follows:

16 (C) The total number of new felony convictions and the
17 rate of new felony convictions from each of the ~~Department~~ Division of
18 Community Correction's individual probation or parole areas for the current
19 year and previous years, as available;

20

21 SECTION 968. Arkansas Code § 16-99-105(a)(2)(E), concerning reporting
22 and data collection by the Department of Community Correction, is amended to
23 read as follows:

24 (E) The evidence-based programs established or enhanced by
25 the ~~Department~~ Division of Community Correction as part of its effort to
26 reduce revocations and improve public safety and any subsequent evidence-
27 based programs that contribute to the outcomes of the performance incentive
28 funding program under this subchapter.

29

30 SECTION 969. Arkansas Code § 16-99-105(d)(2) and (3), concerning
31 reporting and data collection by the Department of Community Correction, are
32 amended to read as follows:

33 (2) This analysis shall include without limitation the effect,
34 compared to baseline, on net ~~Department~~ Division of Correction bed usage by
35 the ~~Department~~ Division of Community Correction and by all county grantees,
36 as well as ~~Department~~ Division of Correction admissions and lengths-of-stay,

1 moneys paid out, revocation rates and new crime conviction rates for the
2 ~~Department~~ Division of Community Correction, and guidelines compliance for
3 participating counties.

4 (3) The board shall provide analyses on an area-by-area basis
5 for the ~~Department~~ Division of Community Correction performance incentive
6 funding program and on a county-by-county, multicounty-partnership, or
7 judicial-district basis for the local performance-incentive funding program.
8

9 SECTION 970. Arkansas Code § 16-106-201(2), concerning the definition
10 of "inmate" under the rules governing actions against the state, is amended
11 to read as follows:

12 (2) "Inmate" or "inmate in a penal institution" includes, but is
13 not limited to, a person in the custody or under the supervision of the
14 ~~Department~~ Division of Correction, the ~~Department~~ Division of Community
15 Correction, or the United States Bureau of Prisons; and
16

17 SECTION 971. Arkansas Code § 16-106-202(a), concerning premature,
18 frivolous, or malicious lawsuits, is amended to read as follows:

19 (a) A civil action or claim initiated against the state, the Board of
20 Corrections, the ~~Department~~ Division of Correction, the ~~Department~~ Division
21 of Community Correction, another state agency, or a political subdivision, or
22 an original action in an appellate court, or an appeal of an action, whether
23 or not the plaintiff was represented in court, by an inmate in a penal
24 institution or an incarcerated person appearing pro se may be:

25 (1) Dismissed without prejudice by the court on its own motion
26 or on a motion of the defendant, if all administrative remedies available to
27 the inmate have not been exhausted; or

28 (2) Dismissed with prejudice by the court on a motion of the
29 defendant if the court is satisfied that the action is frivolous or
30 malicious.
31

32 SECTION 972. Arkansas Code § 16-106-203(1), concerning sanctions for
33 causes of actions that are frivolous or malicious, is amended to read as
34 follows:

35 (1) Award attorney's fees and actual costs incurred by the
36 state, the ~~Department~~ Division of Correction, or the ~~Department~~ Division of

1 Community Correction, another state agency, a political subdivision, the
2 Attorney General's office, or the defendant, not to exceed two thousand five
3 hundred dollars (\$2,500) per frivolous cause of action;

4
5 SECTION 973. Arkansas Code § 16-106-203(3) and (4), concerning
6 sanctions for causes of actions that are frivolous or malicious, are amended
7 to read as follows:

8 (3) Order the ~~Department~~ Division of Correction to revoke up to
9 thirty (30) days' earned good-time credits accrued, under § 12-29-201 et
10 seq.;

11 (4) Order the ~~Department~~ Division of Correction to revoke
12 permission to have nonessential personal property of the inmate, including,
13 but not limited to, televisions, radios, stereos, or tape recorders. If
14 permission is revoked, the ~~Department~~ Division of Correction shall take
15 appropriate precautions to protect the property during the period of the
16 revocation; or

17
18 SECTION 974. Arkansas Code § 16-106-204(a), concerning fees and costs
19 as a judgment against the inmate, is amended to read as follows:

20 (a) Any award of attorney's fees or costs, or the imposition of a
21 sanction shall serve as a judgment against the inmate, and the ~~Department~~
22 Division of Correction is authorized to take up to fifty percent (50%) of the
23 inmate's account per month until paid.

24
25 SECTION 975. Arkansas Code § 16-123-407 is amended to read as follows:
26 16-123-407. Exemptions.

27 The ~~Department~~ Division of Correction, the ~~Department~~ Division of
28 Community Correction, a county jail, and a detention facility are exempt from
29 this subchapter.

30
31 SECTION 976. Arkansas Code § 17-82-104(d)(1), concerning unlawful
32 practice of dentistry is amended to read as follows:

33 (d)(1) A registered licensed dental hygienist working at a ~~Department~~
34 Division of Correction or ~~Department~~ Division of Community Correction
35 facility may work under the general supervision of a licensed dentist.

36

1 SECTION 977. Arkansas Code § 17-82-301(c), concerning penalty for
2 practice of unlawful dentistry, is amended to read as follows:

3 (c) Any person who violates any provision of subsection (a) of this
4 section shall be guilty of a Class D felony and shall be subject to
5 imprisonment not to exceed six (6) years in the ~~Department~~ Division of
6 Correction or a fine of up to ten thousand dollars (\$10,000), or both. Each
7 unauthorized act constitutes a separate offense.

8
9 SECTION 978. Arkansas Code § 17-101-308(a)(4)(A), concerning the
10 denial, suspension or revocation of a certificate for veterinary technicians,
11 is amended to read as follows:

12 (4)(A) Any offense punishable by incarceration in the ~~Department~~
13 Division of Correction or federal prison.

14
15 SECTION 979. Arkansas Code § 19-4-803(a)(5), resulting from Initiated
16 Act 1 of 2000 and concerning exemptions under the accounting and budgetary
17 procedures regarding the expenditure of cash funds, is amended to read as
18 follows:

19 (5) The Benefit Fund of the ~~Department~~ Division of Workforce
20 Services;

21
22 SECTION 980. Arkansas Code § 19-4-803(b), resulting from Initiated Act
23 1 of 2000 and concerning exemptions, is amended to read as follows:

24 (b) The ~~Department~~ Division of Correction Plasma Center is exempt from
25 provisions of this subchapter.

26
27 SECTION 981. Arkansas Code § 19-4-1602(a)(20), concerning payroll
28 deductions, is amended to read as follows:

29 (20) ~~Department~~ Division Correction Bus Pool dues, when
30 requested in writing by those employees;

31
32 SECTION 982. Arkansas Code § 19-5-302(1), concerning the State General
33 Government Fund, is amended to read as follows:

34 (1) ~~Department~~ Division of Correction Inmate Care and Custody
35 Fund Account.

36 (A) The ~~Department~~ Division of Correction Inmate Care and

1 Custody Fund Account shall be used for the maintenance, operation, and
2 improvement of the ~~Department~~ Division of Correction required in carrying out
3 those powers, functions, and duties relating to nonfarm or crop-producing
4 programs as established by law.

5 (B) The ~~Department~~ Division of Correction Inmate Care and
6 Custody Fund Account shall consist of:

7 (i) Those general revenues as may be provided by
8 law;

9 (ii) Nonrevenue income derived from services
10 provided by the inmate care and custody program;

11 (iii) Excess farm profits as may be provided by law;
12 and

13 (iv) Any other funds provided by law, including
14 federal reimbursements received for eligible expenditures by the various
15 programs of the ~~Department~~ Division of Correction from appropriations made
16 payable from the ~~Department~~ Division of Correction Inmate Care and Custody
17 Fund Account;

18

19 SECTION 983. Arkansas Code § 19-5-302(2), concerning the State General
20 Government Fund, is amended to read as follows:

21 (2) ~~State Military Department~~ Department of the Military Fund
22 Account.

23 (A) The ~~State Military Department~~ Department of the
24 Military Fund Account shall be used for the maintenance, operation, and
25 improvement of the ~~State Military Department~~ Department of the Military
26 required in carrying out the powers, functions, and duties as set out in the
27 Military Code of Arkansas, § 12-60-101 et seq., or other duties imposed by
28 law upon the State Militia, ~~State Military Department~~ Department of the
29 Military, and the Arkansas Wing of the Civil Air Patrol, which was separated
30 from the Department of Public Safety [abolished] by Acts 1981, No. 45, §§ 4
31 and 5.

32 (B) The ~~State Military Department~~ Department of the
33 Military Fund Account shall consist of:

34 (i) Those general revenues as may be provided by
35 law;

36 (ii) Nonrevenue income derived from services

1 provided by the ~~State Military Department~~ Department of the Military; and

2 (iii) Any other funds as may be provided by law.

3 (C) Federal reimbursement funds received on account of
4 eligible expenditures by the State Militia or the ~~State Military Department~~
5 Department of the Military shall be deposited into the Special Military Fund
6 established on the books of the Treasurer of State, the Auditor of State, and
7 the Chief Fiscal Officer of the State, there to be used as may be provided by
8 law;

9
10 SECTION 984. Arkansas Code § 19-5-302(3), concerning the State General
11 Government Fund and the Parks and Tourism Fund Account, is amended to read as
12 follows:

13 (3) Parks and Tourism Fund Account.

14 (A) The Parks and Tourism Fund Account shall be used for the
15 maintenance, operation, and improvement required by the Department of Parks,
16 Heritage, and Tourism as created by § ~~25-13-101~~ 25-43-1301, or other duties
17 imposed by law upon the ~~Department of Parks and Tourism~~ State Parks Division
18 and the Tourism Division, the State Parks, Recreation, and Travel Commission,
19 ~~the Prairie Grove Battlefield State Park Advisory Commission~~, or upon any
20 state park of Arkansas.

21 (B) The Parks and Tourism Fund Account shall consist of:

22 (i) Those general revenues as may be provided by law;

23 (ii) Nonrevenue income derived from services provided by
24 the various divisions of the ~~Department of Parks and Tourism~~ State Parks
25 Division and the Tourism Division; and

26 (iii) Any other funds that may be provided by law.

27 (C) Funds received by the various state parks under the
28 direction of the Department of Parks, Heritage, and Tourism which are not
29 required to be deposited into the State Treasury shall be deposited into
30 banks, there to be disbursed as may be appropriated by the General Assembly
31 or to be used as may be otherwise provided by law;

32
33 SECTION 985. Arkansas Code § 19-5-302(4), concerning the Arkansas
34 Department of Environmental Quality Fund Account of the State General
35 Government Fund, is amended to read as follows:

36 (4) ~~Arkansas Department~~ Division of Environmental Quality Fund

1 Account.

2 (A) The ~~Arkansas Department~~ Division of Environmental
3 Quality Fund Account shall be used for the maintenance, operation, and
4 improvement required by the ~~Arkansas Department~~ Division of Environmental
5 Quality in carrying out the powers, functions, and duties as set out in Title
6 8, Chapters 1-10, or other duties imposed by law ~~upon the Arkansas Pollution~~
7 ~~Control and Ecology Commission which were transferred to the Arkansas~~
8 ~~Department of Environmental Quality under the provisions of § 25-14-101.~~

9 (B) The ~~Arkansas Department~~ Division of Environmental Quality
10 Fund Account shall consist of:

11 (i) Those general revenues as may be provided by law;

12 (ii) Such funds received from the Arkansas State Game and
13 Fish Commission and from the Oil and Gas Commission as may be provided by
14 law;

15 (iii) Nonrevenue income derived from services provided by
16 the ~~Arkansas Department~~ Division of Environmental Quality; and

17 (iv) Any other funds provided by law;

18

19 SECTION 986. Arkansas Code § 19-5-302(7), concerning the State General
20 Government Fund, is amended to read as follows:

21 (7) Department of Labor and Licensing Fund Account.

22 (A) The Department of Labor and Licensing Fund Account
23 shall be used for the maintenance, operation, and improvement required by the
24 Department of Labor and Licensing in carrying out those powers, functions,
25 and duties imposed by law upon the ~~Director~~ Secretary of the Department of
26 Labor and Licensing or the Department of Labor and Licensing, or upon the
27 State Mine Inspector as set out in § 11-7-201 et seq., or any other duties
28 that may be imposed by law upon the Department of Labor and Licensing which
29 was transferred to the Department of Labor and Licensing by § 25-12-101.

30 (B) The Department of Labor and Licensing Fund Account shall
31 consist of:

32 (i) Those general revenues as may be provided by law; and

33 (ii) Any other funds as may be provided by law, including
34 federal reimbursement received on account of eligible expenditures by the
35 various programs of the Department of Labor and Licensing operating from and
36 having appropriations made payable from the Department of Labor and Licensing

1 Fund Account;

2

3 SECTION 987. Arkansas Code § 19-5-302(10), concerning the State
4 General Government Fund and the Department of Arkansas Heritage Fund Account,
5 is amended to read as follows:

6 (10) ~~Department~~ Division of Arkansas Heritage Fund Account. The
7 ~~Department~~ Division of Arkansas Heritage Fund Account shall consist of those
8 general revenues as provided by law for the ~~Department~~ Division of Arkansas
9 Heritage and shall be used for the maintenance, operation, and improvement of
10 the ~~Department~~ Division of Arkansas Heritage;

11

12 SECTION 988. Arkansas Code § 19-5-302(12), concerning the State
13 General Government Fund, is amended to read as follows:

14 (12) ~~Department~~ Division of Community Correction Fund Account.

15 (A) The ~~Department~~ Division of Community Correction Fund
16 Account shall be used for the maintenance, operation, and improvement of the
17 ~~Department~~ Division of Community Correction required in carrying out those
18 powers, functions, and duties as established by law.

19 (B) The ~~Department~~ Division of Community Correction Fund
20 Account shall consist of:

21 (i) Those general revenues as may be provided by
22 law;

23 (ii) Nonrevenue income derived from services
24 provided by the probation, parole, and community correction program; and

25 (iii) Any other funds provided by law, including
26 federal reimbursements received for eligible expenditures by the various
27 programs of the ~~Department~~ Division of Correction from appropriations made
28 payable from the ~~Department~~ Division of Community Correction Fund Account;

29

30 SECTION 989. Arkansas Code § 19-5-302(14), concerning the State
31 General Government Fund, is amended to read as follows:

32 (14) ~~Arkansas Agriculture Department~~ Department of Agriculture
33 Fund Account.

34 (A) The ~~Arkansas Agriculture Department~~ Department of
35 Agriculture Fund Account shall be used for the maintenance, operation, and
36 improvement required by the ~~Arkansas Agriculture Department~~ Department of

1 Agriculture in carrying out those powers, functions, and duties imposed by
2 law upon the Secretary of the ~~Arkansas Agriculture Department~~ Department of
3 Agriculture as set out in Title 25, Chapter 38, or any other duties that may
4 be imposed by law upon the ~~Arkansas Agriculture Department~~ Department of
5 Agriculture which were transferred to the ~~Arkansas Agriculture Department~~
6 Department of Agriculture under the provisions of §§ ~~25-38-204~~ and 25-38-206
7 and 25-38-211.

8 (B) The ~~Arkansas Agriculture Department~~ Department of
9 Agriculture Fund Account shall consist of:

10 (i) Those general revenues as may be provided by
11 law;

12 (ii) Nonrevenue income derived from services
13 provided by the various divisions of the ~~Arkansas Agriculture Department~~
14 Department of Agriculture;

15 (iii) Federal reimbursement received on account of
16 eligible expenditures by the various programs of the ~~Arkansas Agriculture~~
17 ~~Department~~ Department of Agriculture operating from and having appropriations
18 made payable from the ~~Arkansas Agriculture Department~~ Department of
19 Agriculture Fund Account; and

20 (iv) Any other funds as may be provided by law.
21

22 SECTION 990. Arkansas Code § 19-5-503 is amended to read as follows:
23 19-5-503. Work release centers.

24 The Community Correction Revolving Fund is authorized to borrow from
25 the Budget Stabilization Trust Fund for the establishment of new work release
26 centers for the ~~Department~~ Division of Correction. These loans shall be
27 repaid by the end of the fiscal year in which the loans are made.
28

29 SECTION 991. Arkansas Code § 19-5-905(a)(11)(A) and (B), concerning
30 the Securities Reserve Fund, are amended to read as follows:

31 (A) The ~~Department~~ Division of Correction Farm Fund under
32 § 19-5-501(b)(1);

33 (B) The ~~State Military Department~~ Department of the
34 Military Fund Account under § 19-5-501(b)(3);
35

36 SECTION 992. Arkansas Code § 19-5-1045(b) and (c), concerning the

1 County Jail Reimbursement Fund, are amended to read as follows:

2 (b) The fund shall be used by the ~~Department~~ Division of Correction
3 for reimbursing counties housing prisoners sentenced to the ~~Department~~
4 Division of Correction.

5 (c) The fund shall be used by the ~~Department~~ Division of Community
6 Correction for reimbursing counties that are housing prisoners:

7 (1) Sentenced to the ~~Department~~ Division of Community
8 Correction;

9 (2) Placed on probation if the probation is accompanied by
10 incarceration in the ~~Department~~ Division of Community Correction; or

11 (3) Confined in a county jail under any prerelease program or
12 sanction imposed in response to a violation of a supervised condition.

13

14 SECTION 993. Arkansas Code § 19-6-301(31), concerning special revenues
15 enumerated, is amended to read as follows:

16 (31) Fees recovered from ex-offenders on probation or parole
17 from a facility of the ~~Department~~ Division of Community Correction, as
18 enacted by Acts 1981, No. 70, and all laws amendatory thereto, § 16-93-104;
19

20 SECTION 994. Arkansas Code § 19-6-301(42) and (43), concerning special
21 revenues enumerated, are amended to read as follows:

22 (42) That portion not declared to be "pledged revenues" for debt
23 service on any certificates of indebtedness issued under Acts 1983, No. 458,
24 §§ 22-3-1201 – 22-3-1214, 22-3-1215 [repealed], and 22-3-1216 – 22-3-1219,
25 and that portion not declared cash funds paid to the Arkansas Development
26 Finance Authority for deposit into the Correction Facilities Privatization
27 Account of the Correction Facilities Construction Fund, § 22-3-1210(c)(1)(A),
28 of the ~~Department~~ Division of Correction's income from its farm operations,
29 including sale of farm products and livestock, rental of farm properties, and
30 payments from agencies of the state or federal government in connection with
31 the farm operations, as enacted by Acts 1968 (1st Ex. Sess.), No. 50, and all
32 laws amendatory thereto, §§ 12-27-101 – 12-27-105, 12-27-107 – 12-27-109, 12-
33 27-112, 12-27-113, 12-27-115, 12-27-118, 12-27-120, 12-28-102, 12-29-101,
34 former 12-29-102, 12-29-103, 12-29-104, 12-29-107, 12-29-112, 12-29-401, 12-
35 30-301, 12-30-306, 12-30-401, 12-30-403, 12-30-405 – 12-30-407, 12-30-408
36 [repealed], 16-93-101, 16-93-102, former 16-93-201, 16-93-202 – 16-93-204,

1 16-93-601, 16-93-610, 16-93-701, 16-93-705, and 25-8-106;

2 (43) That portion not declared to be “pledged revenues” for debt
3 service on any certificates of indebtedness issued under Acts 1983, No. 458,
4 §§ 22-3-1201 – 22-3-1214, 22-3-1215 [repealed], 22-3-1216 – 22-3-1219, of the
5 ~~Department~~ Division of Correction’s sales, or dispositions of articles and
6 products manufactured or produced by prison labor, as enacted by Acts 1967,
7 No. 473, known as the “Prison-Made Goods Act of 1967”, § 12-30-201 et seq.;

8
9 SECTION 995. Arkansas Code § 19-6-301(104), concerning special
10 revenues enumerated, is amended to read as follows:

11 (104) All ~~Arkansas Department~~ Division of Environmental Quality
12 fees, unless otherwise provided by law, § 8-1-105, landfill operator license
13 fees, § 8-6-909, and that portion of new tire waste tire fees, § 8-9-404;

14
15 SECTION 996. Arkansas Code § 19-6-403 is amended to read as follows:
16 19-6-403. ~~Department~~ Division of Correction Farm Fund.

17 The ~~Department~~ Division of Correction Farm Fund shall consist of those
18 revenues as specified in § 19-6-301(42), there to be used for the
19 maintenance, operation, and improvement of the ~~Department~~ Division
20 of Correction’s farming operations. Any surplus accruing in the fund shall,
21 upon determination of that surplus, be transferred to the ~~Department~~ Division
22 of Correction Inmate Care and Custody Fund Account.

23
24 SECTION 997. Arkansas Code § 19-6-423 is amended to read as follows:
25 19-6-423. ~~Department~~ Division of Correction Prison Industry Fund.

26 The ~~Department~~ Division of Correction Prison Industry Fund shall
27 consist of those special revenues as specified in § 19-6-301(43), there to be
28 used for the maintenance, operation, and improvement of the ~~Department~~
29 Division of Correction’s prison industries activities.

30
31 SECTION 998. Arkansas Code § 19-7-406 is amended to read as follows:
32 19-7-406. Loans on agricultural products.

33 It shall be lawful for the ~~Department~~ Division of Correction and other
34 state institutions and the counties of the state which produce cotton or
35 other agricultural products to participate in government loans made available
36 upon these agricultural products. The superintendent of any such state

1 institution and the county judge of any such county are authorized to enter
2 into the necessary papers to secure the benefits of these government loans.

3
4
5 SECTION 999. Arkansas Code § 19-10-216(c), concerning decisions of the
6 Arkansas State Claims Commission, is amended to read as follows:

7 (c) A claim filed by a person who at the time of filing is an inmate
8 of the ~~Department~~ Division of Correction is exempted from the requirements of
9 this section.

10
11 SECTION 1000. Arkansas Code § 20-9-310(2), concerning liability for
12 furnishing medical records pursuant to subpoena, is amended to read as
13 follows:

14 (2) Providing access to or producing a copy of the health or
15 medical records requested by a clerk of a court, the ~~Department~~ Division of
16 Correction, the ~~Department~~ Division of Community Correction, the Arkansas
17 State Hospital, the Department of Health, the Department of Human Services,
18 or a local law enforcement agency under the Sex Offender Registration Act of
19 1997, § 12-12-901 et seq.; or

20
21 SECTION 1001. Arkansas Code § 20-9-602(12), concerning consent to
22 medical treatment, is amended to read as follows:

23 (12) Any minor incarcerated in the ~~Department~~ Division of
24 Correction or the ~~Department~~ Division of Community Correction, for himself or
25 herself; and

26
27 SECTION 1002. Arkansas Code § 20-9-604(e)(1), concerning consent for
28 medical procedure given by court in an emergency, is amended to read as
29 follows:

30 (e)(1) Consent may be given by a court when an emergency exists and
31 there is no one immediately available who is authorized, empowered to, or
32 capable of consent for a person of unsound mind or there has been a
33 subsequent material and morbid change in the condition of the affected person
34 who is in the custody of the ~~Department~~ Division of Correction or the
35 ~~Department~~ Division of Community Correction.

36

1 SECTION 1003. Arkansas Code § 21-5-701(3), concerning the definition
2 of "covered public employee" under the laws addressing death benefits, is
3 amended to read as follows:

4 (3) "Covered public employee" means a police officer,
5 firefighter, state highway employee, state correction employee, ~~Department~~
6 Division of Community Correction employee, jailer, qualified emergency
7 services worker, wildlife enforcement officer, emergency medical technician,
8 Arkansas Forestry Commission employee, commissioned law enforcement
9 personnel, or emergency response personnel of the ~~State Parks Division of the~~
10 Department of Parks, Heritage, and Tourism;

11
12 SECTION 1004. Arkansas Code § 21-5-701(4), concerning the definition
13 of "Department of Community Correction employee" under the laws addressing
14 death benefits, is amended to read as follows:

15 (4) "~~Department~~ Division of Community Correction employee" means
16 any employee of the ~~Department~~ Division of Community Correction who is
17 subject to injury through contact with parolees, probationers, or center
18 residents;

19
20 SECTION 1005. Arkansas Code § 21-5-701(10), concerning the definition
21 of "state correction employee" under the laws addressing death benefits, is
22 amended to read as follows:

23 (10) "State correction employee" means an employee of the
24 ~~Department~~ Division of Correction or the Corrections School System who is
25 subject to injury through contact with inmates or parolees of the ~~Department~~
26 Division of Correction;

27
28 SECTION 1006. Arkansas Code § 21-5-704(b)(2)(A), concerning payment of
29 claim to covered public employees, their designated beneficiaries, or their
30 survivors, is amended to read as follows:

31 (2)(A) Except as provided in subdivision (b)(2)(B) of this
32 section, the funds shall not be reimbursed by transfer or charging the funds
33 against any state funds allocated for turnback to cities or counties or
34 distributed to the State Highway and Transportation Department Fund or
35 distributed to any ~~Department~~ Division of Correction fund account or any
36 other state department agency fund account other than the Arkansas State

1 Claims Commission fund accounts and the Miscellaneous Revolving Fund or state
2 funds levied for firefighters, police officers, employees of the Arkansas
3 Department of Transportation, and employees of the ~~Department~~ Division of
4 Correction for pension purposes.

5
6 SECTION 1007. Arkansas Code § 21-5-704(c), concerning payment of claim
7 to covered public employees, their designated beneficiaries, or their
8 survivors, is amended to read as follows:

9 (c) It is the intent of this subchapter that twenty-five thousand
10 dollars (\$25,000) of the total obligation of providing the benefits provided
11 by this subchapter, even though the funds are to be administered by the
12 Arkansas State Claims Commission, are to be defrayed from state funds and are
13 not to be charged against, or recovered against, any turnback moneys due the
14 cities or counties of this state or allocated to the state highway system of
15 this state or to the ~~Department~~ Division of Correction or any other state
16 department agency fund account other than the Arkansas State Claims
17 Commission fund accounts and the Miscellaneous Revolving Fund.

18
19 SECTION 1008. The introductory language of Arkansas Code § 21-5-
20 705(a)(1), concerning payment of claim to designated beneficiaries or
21 survivors of certain specified public employees killed in the line of duty,
22 is amended to read as follows:

23 (1) Police officer, wildlife enforcement officer, commissioned
24 law enforcement officer or emergency response employee of the ~~State Parks~~
25 ~~Division of the~~ Department of Parks, Heritage, and Tourism, ~~Department~~
26 Division of Community Correction employee, employee of the ~~Department~~
27 Division of Correction, jailer, or coroner whose death occurred:

28
29 SECTION 1009. Arkansas Code § 21-5-705(b), concerning payment of
30 claims to designated beneficiaries or survivors of certain public employees
31 killed in the line of duty, is amended to read as follows:

32 (b) In addition to the benefits provided for in subsection (a) of this
33 section, the state shall pay the additional sum of twenty-five thousand
34 dollars (\$25,000) to the designated beneficiary, surviving spouse, or
35 surviving children under twenty-two (22) years of age of any police officer,
36 wildlife enforcement officer of the Arkansas State Game and Fish Commission,

1 commissioned law enforcement officer of the ~~State Parks Division of the~~
2 Department of Parks, Heritage, and Tourism, ~~Department~~ Division of Community
3 Correction employee, or employee of the ~~Department~~ Division of Correction:

4 (1) Who was wearing a bulletproof vest approved by the Director
5 of the Department of Arkansas State Police or the Director of the Division of
6 Arkansas State Police; and

7 (2) Whose death occurred:

8 (A) After July 1, 1989; and

9 (B) In the official line of duty as the result of a
10 criminal action of another person or persons.

11
12 SECTION 1010. Arkansas Code § 22-3-1202 is amended to read as follows:
13 22-3-1202. Purpose.

14 It has been found by the General Assembly that adequate construction,
15 equipping, maintenance, and operation of facilities for the ~~Department~~
16 Division of Correction and the state-supported institutions of higher
17 education are essential to the well-being of this state and that the pledging
18 of the motor vehicles safety inspection fee, the fees derived from the
19 agriculture and livestock activities and rentals of farm properties, the fees
20 collected from the sale or disposition of articles and products manufactured
21 through the operations of the prison industries program, and the rental fees
22 collected by state-supported institutions of higher education from tenants
23 other than state agencies is essential to the fulfillment of the purposes of
24 this subchapter.

25
26 SECTION 1011. Arkansas Code § 22-3-1203(2), concerning the definition
27 of "building", is amended to read as follows:

28 (2)(A) "Building" or "buildings" means any and all buildings and
29 related facilities constructed or acquired and equipped for the housing of
30 inmates committed to, or in the custody of, the ~~Department~~ Division of
31 Correction; any and all buildings and related facilities constructed,
32 acquired, or equipped for the purpose of expanding the prison agriculture and
33 industry programs within the ~~Department~~ Division of Correction; and any and
34 all buildings constructed, acquired, or equipped for any state-supported
35 institution of higher education, the construction, acquisition, or equipping
36 of which are authorized by this subchapter.

1 (B) The term "building" or "buildings" means a single
2 building or complex of buildings or an expansion of an existing building or
3 complex of buildings as may be determined best to serve the needs of the
4 ~~Department~~ Division of Correction or state-supported institutions of higher
5 education and shall refer to and include such related structures, fixtures,
6 and facilities as may be determined to be appropriate;

7
8 SECTION 1012. Arkansas Code § 22-3-1203(4)(A), concerning the
9 definition of "construct" or "construction" under the Public Facilities
10 Finance Act of 1983, is amended to read as follows:

11 (4)(A) "Construct" or "construction" means to acquire,
12 construct, reconstruct, remodel, expand, install, or equip all lands,
13 buildings, structures, improvements, or other property, either real,
14 personal, or mixed, which is useful in connection with the building, and to
15 make other necessary expenditures in connection therewith by such methods and
16 in such manner as the Building Authority Division ~~of the Department of~~
17 ~~Finance and Administration~~ shall determine to be necessary or desirable to
18 accomplish the powers, purposes, and authorities set forth in this
19 subchapter.

20
21 SECTION 1013. Arkansas Code § 22-3-1203(5), concerning the definition
22 of "department", is repealed.

23 ~~(5) "Department" means the Department of Correction created by §~~
24 ~~12-27-103 and any successor agency;~~

25
26 SECTION 1014. Arkansas Code § 22-3-1205(a), concerning the powers of
27 the Building Authority Division, is amended to read as follows:

28 (a) In addition to the powers, purposes, and authorities set forth
29 elsewhere in this subchapter or in other laws, the Building Authority
30 Division ~~of the Department of Finance and Administration~~ is authorized and
31 empowered to:

32 (1) Acquire, construct, repair, renovate, alter, maintain, and
33 equip existing or new buildings and capital improvements and the sites upon
34 which they are situated for use by the ~~Department~~ Division of Correction for
35 the housing, treatment, care, and rehabilitation of inmates committed to or
36 in the custody of the ~~Department~~ Division of Correction;

1 (2) Acquire, construct, repair, renovate, alter, maintain, and
2 equip existing or new buildings and capital improvements and the sites upon
3 which they are situated for use by the ~~Department~~ Division of Correction for
4 the prison agriculture and industry programs;

5
6 SECTION 1015. Arkansas Code § 22-3-1210(a)(2) and (3), concerning
7 certificates of indebtedness and the Public Facilities Debt Service Fund, are
8 amended to read as follows:

9 (2) All moneys from the sale of or disposition of farm products,
10 livestock, or other products produced in connection with the agriculture and
11 livestock activities at any institution under the control of the Board of
12 Corrections or any successor entity, excluding those moneys that may be
13 accountable from, or the value of, products consumed within the ~~Department~~
14 Division of Correction and from rental of farm properties under the control
15 of the board or any successor entity;

16 (3) All moneys from the sale or disposition of articles and
17 products manufactured or produced by prison labor through the operations of
18 the prison industry program, excluding those moneys that may be accountable
19 from, or the value of, articles and products used or consumed within the
20 ~~Department~~ Division of Correction; and

21
22 SECTION 1016. Arkansas Code § 22-3-1210(c), concerning certificates of
23 indebtedness and the Public Facilities Debt Service Fund, is amended to read
24 as follows:

25 (c)(1)(A) Moneys described in subdivision (a)(2) of this section are
26 declared to be cash funds restricted in their use and dedicated and are to be
27 used solely as authorized in § 15-5-213. The cash funds when received by the
28 ~~Department~~ Division of Correction shall not be deposited into or deemed to be
29 a part of the State Treasury for purposes of Arkansas Constitution, Article
30 5, § 29, Arkansas Constitution, Article 16, § 12, Arkansas Constitution,
31 Amendment 20, or any other constitutional or statutory provision related
32 thereto. The ~~Department~~ Division of Correction shall pay such cash funds to
33 the Arkansas Development Finance Authority for deposit into the Correction
34 Facilities Privatization Account of the Correction Facilities Construction
35 Fund for the purposes authorized by § 15-5-213. The cash funds described in
36 this subsection shall not be subject to appropriation to the extent required

1 for debt service.

2 (B) Commencing on the first day of the month next
3 succeeding the issuance of certificates of indebtedness under this
4 subchapter, but not before July 1, 1983, and so long as any certificates are
5 outstanding under this subchapter, the pledged revenues, except as provided
6 herein, shall be deposited into the State Treasury as and when received by
7 the ~~Department~~ Division of Correction, by the Building Authority Division ~~of~~
8 ~~the Department of Finance and Administration~~, by state-supported institutions
9 of higher education, or by any other state agency, as the case may be, to the
10 credit of a fund to be designated the "Public Facilities Debt Service Fund".

11 (2) So long as any certificates of indebtedness are outstanding
12 under this subchapter, all moneys in the Public Facilities Debt Service Fund
13 shall be used solely for payment and redemption of the outstanding 1977 Bonds
14 and the 1979 Bonds, as authorized in this subchapter, for the payment of the
15 principal of and interest on the certificates of indebtedness as authorized
16 in this subchapter, for transfer of such amounts designated in subsection (a)
17 of this section from time to time, as deemed necessary by the Chief Fiscal
18 Officer of the State, to the Correction Facilities Privatization Account of
19 the Correction Facilities Construction Fund established in § 15-5-213, and
20 for the transfer of surplus moneys as defined in the authorizing resolution
21 in the State Treasury for credit to the designated ~~Department~~ Division of
22 Correction funds, in accordance with the provisions of this subchapter.

23

24 SECTION 1017. Arkansas Code § 22-3-1210(f), concerning certificates of
25 indebtedness and the Public Facilities Debt Service Fund, is amended to read
26 as follows:

27 (f) Nothing in this section is intended to prohibit the ~~division~~
28 Building Authority Division from investing moneys received under this
29 section, as provided in this subchapter.

30

31 SECTION 1018. Arkansas Code § 22-3-1217 is amended to read as follows:

32 22-3-1217. Disposition of revenues from agricultural and livestock
33 activities of correctional facility.

34 (a)(1) Prior to the issuance of certificates of indebtedness as
35 authorized by this subchapter, all moneys collected by the ~~Department~~
36 Division of Correction from the sale or disposition of farm products,

1 livestock, or other products produced in connection with agricultural and
2 livestock activities at institutions under the control of the Board of
3 Corrections, from the rental of farm properties under the control of the
4 board, and from payments from agencies of the state or federal government in
5 connection with the farm operations of the ~~department~~ division shall be
6 deposited into the State Treasury as special revenues for credit to the
7 ~~Department~~ Division of Correction Farm Fund, as authorized by law, to be used
8 for the maintenance, operation, and improvement of the agriculture and farm
9 programs of the ~~department~~ division.

10 (2) Moneys which the ~~department~~ division shall determine not to
11 be necessary in defraying expenses of operating the agriculture programs of
12 the ~~department~~ division and which are profit or surplus from the operation of
13 the agriculture programs shall, upon certification by the board to the Chief
14 Fiscal Officer of the State, be transferred by the Chief Fiscal Officer of
15 the State from the ~~Department~~ Division of Correction Farm Fund to the
16 ~~Department~~ Division of Correction Inmate Care and Custody Fund Account within
17 the State General Government Fund, to be used to supplement general revenues
18 provided for the maintenance, operation, and improvement of the ~~department~~
19 division, as provided by law.

20 (b)(1) Commencing the first day of the month next succeeding the
21 issuance of any certificates of indebtedness as authorized by this
22 subchapter, the moneys described in this section shall be pledged revenues,
23 as stated in § 22-3-1210, and shall be deposited into the Public Facilities
24 Debt Service Fund as established in § 22-3-1210.

25 (2) Any surplus prison farm moneys in the Public Facilities Debt
26 Service Fund, as defined in the authorizing resolution, shall be transferred
27 to the ~~Department~~ Division of Correction Farm Fund, upon certification by the
28 Building Authority Division of the Department of Finance and Administration
29 to the Chief Fiscal Officer of the State, to the Treasurer of State, and to
30 the Auditor of State, to be used for the maintenance, operation, and
31 improvement of the agriculture and farm programs of the ~~Department~~ Division
32 of Correction, as provided by law.

33 (3) Such moneys deposited into the ~~Department~~ Division of
34 Correction Farm Fund which the ~~department~~ division shall determine not to be
35 necessary in defraying expenses of operating the agriculture and farm
36 programs of the ~~department~~ division shall be, upon certification thereof by

1 the board to the Chief Fiscal Officer of the State, transferred by the Chief
2 Fiscal Officer of the State from the ~~Department~~ Division of Correction Farm
3 Fund to the ~~Department~~ Division of Correction Inmate Care and Custody Fund
4 Account within the State General Government Fund to be used to supplement
5 general revenues provided for the maintenance, operation, and improvement of
6 the ~~department~~ division, as provided by law.

7
8 SECTION 1019. Arkansas Code § 22-3-1218 is amended to read as follows:
9 22-3-1218. Disposition of revenues from prison labor.

10 (a)(1) Prior to the issuance of certificates of indebtedness as
11 authorized by this subchapter, all moneys collected by the Board of
12 Corrections from the sale or disposition of articles and products
13 manufactured or produced by prison labor shall be forthwith deposited with
14 the Treasurer of State, to be there kept and maintained as a special
15 revolving account designated as the "~~Department~~ Division of Correction Prison
16 Industries Fund" as authorized by law. The moneys so collected and deposited
17 shall be used solely for the purchase of manufacturing supplies, equipment,
18 machinery, and buildings used to carry out the purposes of the industries
19 program within the ~~Department~~ Division of Correction as well as for the
20 payment of the necessary personnel in charge thereof and to otherwise defray
21 the necessary expenses incident thereto, all of which shall be under the
22 direction and subject to the approval of the board.

23 (2) The ~~Department~~ Division of Correction Prison Industries Fund
24 shall never be maintained in excess of the amount necessary to efficiently
25 and properly carry out the intentions of this subchapter.

26 (3) When, in the opinion of the board, the ~~Department~~ Division
27 of Correction Prison Industries Fund has reached a sum in excess of the
28 requirements of this subchapter, the excess shall be transferred, upon
29 certification to the Chief Fiscal Officer of the State by the board, to the
30 ~~Department~~ Division of Correction Inmate Care and Custody Fund Account.

31 (b)(1) Commencing on the first day of the month next succeeding the
32 issuance of any certificates of indebtedness as authorized by this
33 subchapter, the moneys described in this section shall be pledged revenues,
34 as stated in § 22-3-1210, and shall be deposited into the Public Facilities
35 Debt Service Fund as established in § 22-3-1210.

36 (2) Any surplus prison industries moneys in the Public

1 Facilities Debt Service Fund, as defined in the authorizing resolution, shall
2 be transferred into the ~~Department~~ Division of Correction Prison Industries
3 Fund upon certification by the Building Authority Division of the Department
4 of Finance and Administration to the Chief Fiscal Officer of the State, to
5 the Treasurer of State, and to the Auditor of State. The moneys are to be
6 used for the maintenance, operation, and improvement of the prison industries
7 programs of the ~~Department~~ Division of Correction, as provided by law.

8 (3) Such moneys deposited into the ~~Department~~ Division of
9 Correction Prison Industries Fund as the ~~Department~~ Division of Correction
10 shall determine not to be necessary in defraying the expenses of operating
11 the industries programs of the ~~department~~ Division of Correction, upon
12 certification thereof by the board to the Chief Fiscal Officer of the State,
13 shall be transferred by the Chief Fiscal Officer of the State from the
14 ~~Department~~ Division of Correction Prison Industries Fund to the ~~Department~~
15 Division of Correction Inmate Care and Custody Fund Account within the State
16 General Government Fund to be used to supplement general revenues provided
17 for the maintenance, operation, and improvement of the ~~Department~~ Division of
18 Correction, as provided by law.

19
20 SECTION 1020. Arkansas Code § 22-3-1225(c)(1) and (2), concerning the
21 Prison Construction Fund, are amended to read as follows:

22 (1) Correction or prison facilities to be used by the ~~Department~~
23 Division of Correction;

24 (2) Regional jail facilities operated by the ~~Department~~ Division
25 of Correction; or

26
27 SECTION 1021. Arkansas Code § 22-3-1225(e), concerning the Prison
28 Construction Fund, is amended to read as follows:

29 (e) The Arkansas Development Finance Authority shall not fund or
30 provide for the funding of any facility described in subsection (c) of this
31 section to be operated or utilized by the ~~Department~~ Division of Correction
32 unless the project, the plans therefor, and the construction thereof have
33 been reviewed and approved by the Building Authority Division ~~of the~~
34 ~~Department of Finance and Administration~~. The Arkansas Development Finance
35 Authority shall not fund or provide for the funding of any other regional
36 jail facility not utilized by the ~~Department~~ Division of Correction unless

1 the project is in compliance with the minimum standards for jail facilities
2 adopted by the state.

3
4 SECTION 1022. Arkansas Code § 23-61-903(9)(A)(viii), concerning the
5 definition of "submitting entity", is amended to read as follows:

6 (viii) An entity that contracts with institutions of
7 the ~~Department~~ Division of Correction or the ~~Department~~ Division of Community
8 Correction to provide medical, dental, or pharmaceutical care to inmates.

9
10 SECTION 1023. Arkansas Code § 23-115-402(f)(1) and (2), concerning the
11 restriction on the sale of lottery tickets, are amended to read as follows:

12 (1) The ~~Department~~ Division of Correction;

13 (2) The ~~Department~~ Division of Community Correction; or

14
15 SECTION 1024. Arkansas Code § 24-4-726(b), concerning state
16 penitentiary employees retirement, is amended to read as follows:

17 (b) Upon certification from the Executive Director of the Arkansas
18 Public Employees' Retirement System, the Treasurer of State shall transfer
19 from the Department of Correction Inmate Care and Custody Fund Account of the
20 State General Government Fund or the Division of Correction Inmate Care and
21 Custody Fund Account of the State General Government Fund to the Arkansas
22 Public Employees' Retirement System Fund an amount equal to the contributions
23 made by the state penitentiary employees. That amount shall be credited to
24 the Employer Contribution Fund of the system.

25
26 SECTION 1025. Arkansas Code § 24-4-726(f), concerning state
27 penitentiary employees retirement, is amended to read as follows:

28 (f) On January 1 of each year, the Executive Director of the Arkansas
29 Public Employees' Retirement System shall determine the amount necessary for
30 the purpose of providing funds to assure the payment of such benefits. The
31 Treasurer of State shall transfer from the ~~Department~~ Division of Correction
32 Inmate Care and Custody Fund Account of the State General Government Fund to
33 the Arkansas Public Employees' Retirement System Fund that amount, as
34 certified by the executive director.

35
36 SECTION 1026. Arkansas Code § 25-5-101 is repealed.

1 ~~25-5-101. Continuation Organization.~~

2 ~~(a) The Department of Correction, established by § 12-27-101 et seq.,~~
3 ~~is continued.~~

4 ~~(b) The department shall consist of those divisions which existed on~~
5 ~~July 1, 1971, and any other divisions which may be created by law and placed~~
6 ~~under the department.~~

7
8
9 SECTION 1027. Arkansas Code § 25-15-211(d), concerning licenses for
10 administrative adjudication, is amended to read as follows:

11 (d)(1) A complaint filed by an offender with a state licensing board
12 or state licensing agency against a licensee of the board or agency shall not
13 be heard by the board or agency unless the complaint is accompanied by
14 appropriately verified documentation showing that the offender has exhausted
15 all administrative remedies under the ~~Department~~ Division of Correction
16 grievance procedure.

17 (2) For purposes of this section, "offender" means any person
18 sentenced to the ~~Department~~ Division of Correction or sentenced to the
19 ~~Department~~ Division of Correction for judicial transfer to the ~~Department~~
20 Division of Community Correction or any person confined in a community
21 correction center as a condition of probation, suspended imposition of
22 sentence, or post prison transfer.

23
24 SECTION 1028. Arkansas Code § 25-15-212(a), concerning judicial review
25 of administrative adjudication, is amended to read as follows:

26 (a) In cases of adjudication, any person, except an inmate under
27 sentence to the custody of the ~~Department~~ Division of Correction, who
28 considers himself or herself injured in his or her person, business, or
29 property by final agency action shall be entitled to judicial review of the
30 action under this subchapter. Nothing in this section shall be construed to
31 limit other means of review provided by law.

32
33 SECTION 1029. Arkansas Code § 25-16-614(d), concerning the examination
34 of office, is amended to read as follows:

35 (d) On the refusal of the Treasurer of State to comply with the
36 provisions of this section, his or her office shall be declared vacant and

1 the offense deemed a felony, and on conviction thereof he or she shall be
2 sentenced to the ~~Department~~ Division of Correction for a term not exceeding
3 five (5) years.

4
5 SECTION 1030. Arkansas Code § 25-35-104(a)(2) and (3), concerning
6 participation in the Arkansas Multi-Agency Insurance Trust Fund, are amended
7 to read as follows:

8 (2) The ~~Department~~ Division of Correction;

9 (3) The ~~Department~~ Division of Community Correction; and

10
11 SECTION 1031. Arkansas Code § 27-14-2212(b), concerning the mutilation
12 of serial numbers, is amended to read as follows:

13 (b) Any person convicted of violating subsection (a) of this section
14 shall be deemed guilty of a felony and punished by imprisonment in the
15 ~~Department~~ Division of Correction for not less than one (1) year nor more
16 than five (5) years.

17
18 SECTION 1032. Arkansas Code § 27-65-132(c), concerning contracts
19 between the State Highway Commission and employees, is amended to read as
20 follows:

21 (c) Willful violation of this section shall be deemed a felony
22 punishable by imprisonment in the ~~Department~~ Division of Correction for not
23 less than one (1) year.

24
25 SECTION 1033. Arkansas Code § 27-66-601(a) and (b), concerning state
26 inmates working on roads, are amended to read as follows:

27 (a) The State Highway Commission shall employ and work as many of the
28 state inmates on the public roads as may not be otherwise employed by the
29 ~~Department~~ Division of Correction.

30 (b) State inmates working on roads shall be under the care and custody
31 of wardens or other officers named by the ~~Department~~ Division of Correction,
32 with the approval of the Governor.

33
34 SECTION 1034. Arkansas Code § 27-66-601(e), concerning state inmates
35 working on roads, is amended to read as follows:

36 (e) The ~~Department~~ Division of Correction is to receive no profits for

1 working the inmates on state roads.

2

3 SECTION 1035. Arkansas Code Title 25, Chapter 43, is amended to add an
4 additional subchapter to read as follows:

5 Subchapter 5 – Department of Education

6

7 25-43-501. Department of Education.

8 There is created the Department of Education as a cabinet-level
9 department.

10

11 25-43-502. State entities transferred to Department of Education.

12 (a) The administrative functions of the following state entities are
13 transferred to the Department of Education by a cabinet-level department
14 transfer:

15 (1) The Arkansas Better Chance Program, created under § 6-45-
16 105;

17 (2) The Arkansas Higher Education Coordinating Board, created
18 under § 6-61-201;

19 (3) The Arkansas School for the Blind, described in § 6-43-201
20 et. seq.;

21 (4) The Arkansas School for the Deaf, created under § 6-43-301;

22 (5) The Arkansas State Library, created under § 13-2-203;

23 (6) The Board of Trustees for the Arkansas School for the Blind
24 and Arkansas School for the Deaf, created under § 6-43-101;

25 (7) The Department of Career Education, created under § 25-30-
26 106, now to be known as the Division of Career and Technical Education;

27 (8) The Department of Education, created under § 25-6-102, now
28 to be known as the Division of Elementary and Secondary Education;

29 (9) The Department of Higher Education, created under § 25-7-
30 101, now to be known as the Division of Higher Education;

31 (10) The Division of Public School Academic Facilities and
32 Transportation, created under § 6-21-112;

33 (11) The Division of Public School Accountability, created under
34 § 6-15-102;

35 (12) The Martin Luther King, Jr. Commission, created under § 25-
36 24-101;

1 (13) The State Board of Education, created under § 6-11-101;

2 (14) The State Library Board, created under § 13-2-205;

3 (15) The Americorps Office, created under § 25-43-504.

4 (b) Unless otherwise provided by law, a cabinet-level department
5 transfer under subsection (a) of this section includes all state entities
6 under a state entity transferred to the Department of Education under
7 subsection (a) of this section, including without limitation a division,
8 office, program, or other unit of a state entity transferred to the
9 Department of Education under subsection (a) of this section.

10 (c) Unless otherwise provided by law, a state entity whose
11 administrative functions have been transferred to the Department of Education
12 under subsection (a) of this section shall otherwise continue to exercise the
13 duties of the state entity under the administration of the cabinet-level
14 Department of Education in the same manner as before the creation of the
15 cabinet-level department.

16
17 25-43-503. Secretary of the Department of Education.

18 (a) The executive head of the Department of Education shall be the
19 Secretary of the Department of Education.

20 (b) The secretary shall be appointed by the Governor, subject to
21 confirmation by the Senate, and shall serve at the pleasure of the Governor.

22 (c) Each division of the department shall be under the direction,
23 control, and supervision of the secretary.

24 (d) The secretary may delegate his or her functions, powers, and
25 duties to various divisions or employees of the department as he or she shall
26 deem desirable and necessary for the effective and efficient operation of the
27 department.

28 (e) The secretary may, unless otherwise provided by law:

29 (1) Hire department personnel;

30 (2) Perform or assign duties assigned to the department; and

31 (3) Serve as the director, or the administrative or executive
32 head of any state entity under the administrative control of the department
33 if the secretary also meets all statutory requirements for the position.

34
35 25-43-504. AmeriCorps Office.

36 (a) There is created within the Division of Higher Education of the

1 Department of Education an AmeriCorps Office.

2 (b) The AmeriCorps Office shall perform those duties as delegated by
3 the Secretary of the Department of Education.

4
5 25-43-505. Northwest Technical Institute.

6 (a) The Northwest Technical Institute shall be a part of the Division
7 of Higher Education.

8 (b) The Northwest Technical Institute is an educational facility and
9 shall perform those duties as delegated by the Secretary of the Department of
10 Education.

11
12 SECTION 1036. Arkansas Code § 1-4-114(b)(1)(A), concerning the Poet
13 Laureate of the State of Arkansas, is amended to read as follows:

14 (A) Two (2) principal heads of English departments of
15 state-supported universities or colleges who are selected by the Director of
16 the ~~Department~~ Division of Higher Education; and

17
18 SECTION 1037. Arkansas Code § 2-36-101(a), concerning the grading of
19 fairs, is amended to read as follows:

20 (a) The Arkansas Livestock and Poultry Commission may formulate
21 necessary and appropriate rules and regulations for the grading of fairs on a
22 point system in cooperation with an ad hoc advisory committee formed of
23 representatives of agriculture consisting of representatives from the United
24 States Department of Agriculture, the University of Arkansas Cooperative
25 Extension Service, the Office of Agricultural Science and Technology of the
26 ~~Department~~ Division of Career and Technical Education, and the Arkansas Fair
27 Managers Association, which shall make recommendations as to criteria for the
28 allotment of grade points to the commission.

29
30 SECTION 1038. Arkansas Code § 5-4-903(b)(1), concerning authorization
31 for establishment of pre-adjudication probation programs, is amended to read
32 as follows:

33 (b)(1) A pre-adjudication probation program may incorporate services
34 from various state agencies and educational institutions, including without
35 limitation the ~~Department~~ Division of Community Correction, the Department of
36 Human Services, the Adult Education Section ~~of the Department of Career~~

1 ~~Education~~ of the Division of Workforce Services, vocational schools,
2 technical schools, community colleges, and two-year and four-year public
3 universities.

4
5 SECTION 1039. Arkansas Code § 5-4-913 is amended to read as follows:

6 5-4-913. Education screening.

7 A person eligible to enter a pre-adjudication program under this
8 subchapter shall have his or her education level assessed by the court by
9 completing a reading, literacy, and math assessment by the ~~Department of~~
10 ~~Career Education~~ Adult Education Section.

11
12 SECTION 1040. Arkansas Code § 6-1-105, is amended to read as follows:

13 6-1-105. Information sharing with the Assessment Coordination
14 ~~Department~~ Division.

15 (a)(1) The State Board of Education, the ~~Department of Education~~
16 Division of Elementary and Secondary Education, and any other ~~Department~~
17 department or division administered by the state board shall provide
18 information maintained by the state board, the ~~Department of Education~~
19 Division of Elementary and Secondary Education, or any other Department or
20 division to the Assessment Coordination ~~Department~~ Division upon request by
21 the Assessment Coordination ~~Department~~ Division.

22 (2) The information shall enable the Assessment Coordination
23 ~~Department~~ Division to:

24 (A) Verify, ascertain, or calculate assessed values of
25 real and personal property, millage rates, or tax collection rates in school
26 districts and counties; and

27 (B) Assist the General Assembly, the Attorney General, or
28 another state agency in verifying, ascertaining, or calculating data related
29 to public schools, including school funding, school district revenues, and
30 public school facilities.

31 (b) Information provided under this section shall be in any medium in
32 which the record is readily available or in any format to which it is readily
33 convertible with the existing software used by the state board, the
34 ~~Department of Education~~ Division of Elementary and Secondary Education, or
35 any other department or division.

36 (c) Actual costs or expenses incurred in compiling or transmitting the

1 data to the Assessment Coordination ~~Department~~ Division shall be paid by the
2 ~~Department of Education~~ Division of Elementary and Secondary Education.

3
4 SECTION 1041. Arkansas Code § 6-1-403 is amended to read as follows:

5 6-1-403. Purpose.

6 The purpose of the School Leadership Coordinating Council is to:

7 (1) Serve as a central body to coordinate the leadership
8 development system efforts across the state including:

9 (A) Encouraging school districts to work with the
10 ~~Department of Education~~ Division of Elementary and Secondary Education, the
11 ~~Department~~ Division of Higher Education, the ~~Department~~ Division of Career
12 and Technical Education, ~~the Arkansas Leadership Academy School Support~~
13 ~~Program~~, and other leadership groups;

14 (B) Recommending a state leadership development system to
15 coordinate all aspects of leadership development based on educational
16 leadership standards adopted by the ~~Department of Education~~ Division of
17 Elementary and Secondary Education; and

18 (C) Devising a system of gathering data that includes
19 input from practitioners, educational and community leaders, university
20 leadership and faculty, and other interested parties;

21 (2) Assist the ~~Department of Education~~ Division of Elementary
22 and Secondary Education, the ~~Department~~ Division of Higher Education, the
23 ~~Department~~ Division of Career and Technical Education, ~~the Arkansas~~
24 ~~Leadership Academy School Support Program~~, school districts, and other
25 leadership groups in enhancing school leadership and school support efforts;
26 and

27 (3) Aid in the development of model evaluation tools for use in
28 the evaluation of school administrators.

29
30 SECTION 1042. Arkansas Code § 6-1-404(a)(2), concerning the creation
31 of the School Leadership Coordinating Council, is amended to read as follows:

32 (2) The Commissioner of Elementary and Secondary Education;

33
34 SECTION 1043. Arkansas Code § 6-1-404(a)(4) and (5), concerning the
35 creation of the School Leadership Coordinating Council, is amended to read as
36 follows:

1 (4) The Director of the ~~Department~~ Division of Higher Education;

2 (5) The Director of the ~~Department~~ Division of Career and

3 Technical Education;

4
5 SECTION 1044. Arkansas Code § 6-1-404(e), concerning the creation of
6 the School Leadership Coordinating Council, is amended to read as follows:

7 (e) The ~~Department of Education~~ Division of Elementary and Secondary
8 Education, with the assistance of the ~~Department~~ Division of Higher Education
9 and the ~~Department~~ Division of Career and Technical Education, shall staff
10 the council.

11
12 SECTION 1045. Arkansas Code § 6-1-404(f)(1), concerning the creation
13 of the School Leadership Coordinating Council, is amended to read as follows:

14 (f)(1) All nonlegislative members of the council may receive expense
15 reimbursement in accordance with § 25-16-902 paid by the ~~Department of~~
16 Education Division of Elementary and Secondary Education if funds are
17 available.

18
19 SECTION 1046. Arkansas Code § 6-1-603(a), concerning the
20 administration of the College and Career Coaches Program, is amended to read
21 as follows:

22 (a) The ~~Department~~ Division of Career and Technical Education, in
23 partnership with the ~~Department of Education~~ Division of Elementary and
24 Secondary Education and the ~~Department~~ Division of Higher Education, shall
25 develop and administer the College and Career Coaches Program.

26
27 SECTION 1047. The introductory language of Arkansas Code § 6-1-603(b),
28 concerning the administration of the College and Career Coaches Program, is
29 amended to read as follows:

30 (b) The ~~Department~~ Division of Career and Technical Education shall
31 manage the College and Career Coaches Program and:

32
33 SECTION 1048. Arkansas Code § 6-1-604(c)(1)(B), concerning the duties
34 and supervision of the Colleges and Career Coaches Program, is amended to
35 read as follows:

36 (B) Be a liaison between the institution of higher

1 education, education service cooperative, or nonprofit organization and the
2 ~~Department~~ Division of Career and Technical Education.

3
4 SECTION 1049. Arkansas Code § 6-1-604(c)(2), concerning the duties and
5 supervision of the Colleges and Career Coaches Program, is amended to read as
6 follows:

7 (2) The ~~department~~ Division of Career and Technical Education
8 and the on-site supervisor shall evaluate the performance of each college and
9 career coach.

10
11 SECTION 1050. Arkansas Code § 6-1-605(a)(2), concerning the program
12 effectiveness and measurement of the College and Career Coaches Program, is
13 amended to read as follows:

14 (2)(A) The ~~Department of Education~~ Division of Elementary and
15 Secondary Education and the ~~Department~~ Division of Higher Education shall
16 collect and prepare performance data reports to determine the effectiveness
17 of the program.

18 (B) The data shall be collected for each county and school
19 district served by the program and shall be shared with the ~~Department~~
20 Division of Career and Technical Education on January 1 and August 1 each
21 year.

22
23 SECTION 1051. Arkansas Code § 6-1-605(b), concerning the program
24 effectiveness and measurement of the College and Career Coaches Program, is
25 amended to read as follows:

26 (b) Annually, each college and career coach shall submit a report to
27 the ~~Department~~ Division of Career and Technical Education describing his or
28 her student contacts and the programs and services provided.

29
30 SECTION 1052. Arkansas Code § 6-3-111 is amended to read as follows:
31 6-3-111. Budget requests.

32 The Director of the Educational Television Division of the ~~Department~~
33 ~~of Education~~ Division of Elementary and Secondary Education shall submit
34 budget requests of the ~~division~~ Educational Television Division to the State
35 Board of Education and the Commissioner of Elementary and Secondary Education
36 for their review and approval before the budget submissions are forwarded to

1 the Governor and the Legislative Council.

2

3 SECTION 1053. Arkansas Code § 6-4-104(b), concerning the designation
4 of the Arkansas Higher Education Coordinating Board as the agent for out-of-
5 state education, is amended to read as follows:

6 (b) The ~~Department~~ Division of Higher Education is hereby authorized
7 to administer the program.

8

9 SECTION 1054. Arkansas Code § 6-4-106 is amended to read as follows:

10 6-4-106. Application by students.

11 (a) Students seeking the subsidy to be paid for their benefit shall
12 apply to the ~~Department~~ Division of Higher Education, giving necessary
13 information.

14 (b) If the applicant is found to be a bona fide resident of Arkansas
15 and if funds for this purpose are available, the ~~department~~ division shall,
16 without more, certify the applicant as qualified to participate under this
17 program.

18

19 SECTION 1055. Arkansas Code § 6-5-307(b), concerning classroom teacher
20 salary requirements, is amended to read as follows:

21 (b) Educational Excellence Trust Fund funds allocated for teacher
22 salaries shall be disbursed by the ~~Department of Education~~ Division of
23 Elementary and Secondary Education to school districts pursuant to the state
24 foundation funding formula under § 6-20-2305.

25

26 SECTION 1056. Arkansas Code § 6-5-403(d), concerning the scope of the
27 Arkansas Higher Education Coordinating Board, is amended to read as follows:

28 (d)(1) The board, working in conjunction with state-supported
29 institutions of higher education, private institutions of higher education
30 that wish to participate, the ~~Department of Education~~ Division of Elementary
31 and Secondary Education, and the ~~Department~~ Division of Career and Technical
32 Education annually shall compile information for Arkansas high school
33 students on:

34 (A) Academic scholarships for freshmen entering
35 institutions of higher education in the state; and

36 (B) State-funded programs that provide opportunities for

1 developing technical job skills and apprenticeships.

2 (2)(A) The ~~Department of Education~~ Division of Elementary and
3 Secondary Education shall provide the information annually to all public high
4 school counselors in the state.

5 (B) Each public high school counselor annually shall
6 provide the information received from the ~~Department of Education~~ Division of
7 Elementary and Secondary Education to students in the public high school
8 where he or she is employed.

9
10 SECTION 1057. The introductory language of Arkansas Code § 6-5-404(a),
11 concerning cooperation with the Arkansas Higher Education Coordinating Board
12 by the State Board of Education, the Department of Education, and the public
13 schools of Arkansas, is amended to read as follows:

14 (a) The State Board of Education, the ~~Department of Education~~ Division
15 of Elementary and Secondary Education, and the public schools of Arkansas
16 shall:

17
18 SECTION 1058. Arkansas Code § 6-5-404(a)(1), concerning cooperation
19 with the Arkansas Higher Education Coordinating Board by the State Board of
20 Education, the Department of Education, and the public schools of Arkansas,
21 is amended to read as follows:

22 (1) Cooperate with the Arkansas Higher Education Coordinating
23 Board, the ~~Department~~ Division of Higher Education, and the institutions of
24 higher education in providing the information; and

25
26 SECTION 1059. Arkansas Code § 6-5-803(a), concerning the creation of
27 the Arkansas Academic Physician Program, is amended to read as follows:

28 (a) There is created within the ~~Department~~ Division of Higher
29 Education the Arkansas Academic Physician Program.

30
31 SECTION 1060. Arkansas Code § 6-5-804(a), concerning the Health Care
32 Student Summer Enrichment Program for Underrepresented Student Populations,
33 is amended to read as follows:

34 (a) There is created within the ~~Department~~ Division of Higher
35 Education the Health Care Student Summer Enrichment Program for
36 Underrepresented Student Populations.

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SECTION 1061. Arkansas Code § 6-5-902(3), concerning the definition of "program" under the Positive Youth Development Grant Program, is amended to read as follows:

(3) "Program" means a positive youth development program that is license-exempt or approved by the ~~Department of Education~~ Division of Elementary and Secondary Education as complying with the Out-of-School Time Licensing Standards as adopted by the Division of Child Care and Early Childhood Education of the Department of Human Services.

SECTION 1062. Arkansas Code § 6-5-903(a), concerning the establishment and participation of the Positive Youth Development Grant Program, is amended to read as follows:

(a)(1) The ~~Department of Education~~ Division of Elementary and Secondary Education shall establish the Positive Youth Development Grant Program to assist in the establishment and funding of positive youth development programs for children and youth five through nineteen (5-19) years of age once funding is available.

(2) The ~~department~~ Division of Elementary and Secondary Education, with the advice and assistance of the Division of Child Care and Early Childhood Education, shall develop rules necessary for the implementation of this subchapter.

SECTION 1063. Arkansas Code § 6-5-904(b)-(e), concerning the application process and allocation of funding for a licensed youth development program, is amended to read as follows:

(b) Each applicant for a positive youth development grant shall:

(1) Complete and submit the appropriate application developed by the ~~Department of Education~~ Division of Elementary and Secondary Education in collaboration with the Division of Child Care and Early Childhood Education;

(2) Submit documentation of strong community engagement and collaboration between schools, public institutions, private agencies, business, and faith-based and other community-based organizations working together to utilize the unique skills and resources to create a community learning environment; and

(3)(A) Provide matching funds in the ratio of twenty to eighty

1 (20:80), unless the applicant is granted a waiver by the ~~division~~ Division of
2 Child Care and Early Childhood Education.

3 (B) The ~~division~~ Division of Child Care and Early
4 Childhood Education may waive the required matching funds if:

5 (i) The applicant operates or will operate the
6 program within the geographic boundaries of a public school district that
7 contains at least one (1) school identified as targeted or comprehensive by
8 the ~~Department of Education~~ Division of Elementary and Secondary Education;
9 and

10 (ii) The ~~division~~ Division of Child Care and Early
11 Childhood Education determines that the applicant is unable to provide the
12 matching funds, after exhausting all potential funding sources.

13 (C) The matching funds may consist of cash or appropriate
14 in-kind services.

15 (c) Preference shall be given to applications that:

16 (1) Are developed collaboratively by public and nonpublic
17 schools and private community based programs;

18 (2) Contain accountability systems and measurable outcomes under
19 guidelines developed by the ~~Department~~ Division of Elementary and Secondary
20 Education in consultation with the ~~division~~ Division of Child Care and Early
21 Childhood Education;

22 (3) Detail funds received from all public sources for existing
23 programs, the types of existing programs, and the types of students served by
24 existing programs; and

25 (4) Increase comprehensive positive youth development programs
26 during the school year and summer.

27 (d)(1) If the number of qualified applicants exceed the amount of
28 available funding, the ~~Department~~ Division of Elementary and Secondary
29 Education, after consultation with the Arkansas Early Childhood Commission,
30 shall determine funding distribution.

31 (2) If there is a funding shortage, priority consideration shall
32 be given to programs in communities where:

33 (A) A public school district has fifty percent (50%) or
34 more students eligible for free and reduced lunches; and

35 (B) A public school district has been identified to
36 receive Level 5 – Intensive support from the ~~department~~ Division of

1 Elementary and Secondary Education.

2 (e)(1) Grants shall be three-year awards to be distributed annually,
3 as determined by the ~~division~~ Division of Child Care and Early Childhood
4 Education.

5 (2) Grants may be renewable for positive youth development
6 programs that meet adequate performance levels as developed by the ~~department~~
7 Division of Elementary and Secondary Education.

8 (3) Grants are subject to the availability of funds each fiscal
9 year.

10

11 SECTION 1064. Arkansas Code § 6-5-904(f)(4)(A), concerning the
12 application process and allocation of funding for a licensed youth
13 development program, is amended to read as follows:

14 (A) Academic supports and skill-building activities that
15 link program content to the frameworks promulgated by the ~~department~~ Division
16 of Elementary and Secondary Education;

17

18 SECTION 1065. Arkansas Code § 6-5-905(b)-(d), concerning the criteria
19 for need-based funding to attend a positive youth development program, are
20 amended to read as follows:

21 (b) The ~~Department of Education~~ Division of Elementary and Secondary
22 Education and the Division of Child Care and Early Childhood Education may
23 develop a fee schedule and establish eligibility based on family income for
24 children and youth five through nineteen (5-19) years of age who are not
25 eligible under subsection (a) of this section.

26 (c) The ~~department~~ Division of Elementary and Secondary Education and
27 the ~~division~~ Division of Child Care and Early Childhood Education shall
28 review criteria for identifying and targeting the areas of the state with the
29 greatest need for programs.

30 (d) The State Board of Education, with the advice and assistance of
31 the ~~division~~ Division of Child Care and Early Childhood Education, shall
32 adopt the appropriate criteria for identifying children and youth five
33 through nineteen (5-19) years of age with the greatest need to participate in
34 programs funded by the grant.

35

36 SECTION 1066. Arkansas Code § 6-5-1003(a)(1), concerning college and

1 career readiness standards, is amended to read as follows:

2 (a)(1) The ~~Department~~ Division of Career and Technical Education shall
3 work in collaboration with the ~~Department of Education~~ Division of Elementary
4 and Secondary Education and the ~~Department~~ Division of Higher Education to
5 develop college and career readiness standards for career and technical
6 education courses.

7

8 SECTION 1067. Arkansas Code § 6-5-1003(b)(6)(B), concerning college
9 and career readiness standards, is amended to read as follows:

10 (B) The ~~Department~~ Division of Career and Technical
11 Education, in collaboration with the ~~Department of Education~~ Division of
12 Elementary and Secondary Education and the ~~Department~~ Division of Higher
13 Education, shall establish a common course numbering system that incorporates
14 career and technical education courses at both the secondary and
15 postsecondary level;

16

17 SECTION 1068. The introductory language of Arkansas Code § 6-5-
18 1003(b)(8), concerning college and career readiness standards, is amended to
19 read as follows:

20 (8) Comprehensive guidance counseling and academic advisory
21 systems developed by the ~~Department~~ Division of Career and Technical
22 Education in collaboration with the ~~Department of Education~~ Division of
23 Elementary and Secondary Education and the ~~Department~~ Division of Higher
24 Education that:

25

26 SECTION 1069. Arkansas Code § 6-5-1004(a), concerning technical skills
27 assessments by the Department of Career Education, is amended to read as
28 follows:

29 (a) The ~~Department~~ Division of Career and Technical Education shall
30 recognize valid and reliable technical skills assessments that provide
31 evaluation of students' knowledge and skills necessary for entry into
32 postsecondary education or a career in a selected program of study.

33

34 SECTION 1070. Arkansas Code § 6-5-1004(b)(1), concerning technical
35 skills assessments by the Department of Career Education, is amended to read
36 as follows:

1 (1)(A) Be a third-party, industry-recognized assessment approved
2 by the ~~department~~ division that is based on current industry standards.

3 (B)(i) The ~~department~~ division shall provide a current
4 list of approved third-party, industry-recognized assessments.

5 (ii) The third-party, industry-recognized
6 assessments shall be reviewed and approved by the ~~department~~ division using a
7 process developed by the ~~department~~ division;

8
9 SECTION 1071. Arkansas Code § 6-5-1004(b)(4)(B), concerning technical
10 skills assessments by the Department of Career Education, is amended to read
11 as follows:

12 (B) The ~~department~~ division shall provide technical
13 assistance on career and technical education to secondary administrators and
14 teachers.

15
16 SECTION 1072. Arkansas Code § 6-5-1102(b), concerning the
17 establishment, membership, and meetings of the Council on Postsecondary
18 Education and Career Readiness, is amended to read as follows:

19 (b) The council shall consist of eleven (11) members as follows:

20 (1) The Commissioner of Elementary and Secondary Education or
21 his or her designee;

22 (2) The Director of the ~~Department~~ Division of Higher Education
23 or his or her designee;

24 (3) The Director of the ~~Department~~ Division of Career and
25 Technical Education or his or her designee;

26 (4) The ~~Executive~~ Director of the Arkansas Economic Development
27 Commission or his or her designee;

28 (5) The Director of the ~~Department~~ Division of Workforce
29 Services or his or her designee;

30 (6) A president or chancellor of an Arkansas four-year
31 institution of higher education or his or her designee, appointed annually by
32 the Director of the ~~Department~~ Division of Higher Education;

33 (7) The Executive Director of the Arkansas Association of
34 Educational Administrators or his or her designee;

35 (8) The Executive Director of Arkansas Community Colleges or his
36 or her designee;

1 (9) The Executive Director of the Arkansas Education Association
2 or his or her designee;

3 (10) The Executive Director of the Arkansas School Boards
4 Association or his or her designee; and

5 (11) The President of the Arkansas State Chamber of Commerce and
6 the Associated Industries of Arkansas or his or her designee.

7
8 SECTION 1073. Arkansas Code § 6-5-1102(c)(1), concerning the
9 establishment, membership, and meetings of the Council on Postsecondary
10 Education and Career Readiness, are amended to read as follows:

11 (c)(1) The Commissioner of Elementary and Secondary Education or his
12 or her designee shall call the first meeting of the council and serve as
13 chair for the first meeting.

14
15 SECTION 1074. Arkansas Code § 6-5-1102(g), concerning the
16 establishment, membership, and meetings of the Council on Postsecondary
17 Education and Career Readiness, is amended to read as follows:

18 (g) ~~The Department of Education, Department of Higher Education, and~~
19 ~~Department of Career Education, alternating each year, Department of Commerce~~
20 shall provide meeting space and staff for the council.

21
22 SECTION 1075. Arkansas Code § 6-5-1202(b)(1), concerning the purpose
23 and grant funding of the Advanced Placement Training and Incentive Program,
24 is amended to read as follows:

25 (b)(1) ~~The Department of Education~~ Division of Elementary and
26 Secondary Education shall provide grant funding to organizations that
27 implement measures to achieve the goals of the Advanced Placement Training
28 and Incentive Program.

29
30 SECTION 1076. The introductory language of Arkansas Code § 6-5-
31 1202(c), concerning the purpose and grant funding of the Advanced Placement
32 Training and Incentive Program, is amended to read as follows:

33 (c) Grant funding provided by the ~~department~~ division to an
34 organization under this subchapter shall be used to:

35
36 SECTION 1077. Arkansas Code § 6-10-106(a)(2), concerning uniform dates

1 for the beginning and the end of a school year, is amended to read as
2 follows:

3 (2) The ~~Department of Education~~ Division of Elementary and
4 Secondary Education may grant a school district a waiver to begin school on
5 an earlier or later date if the ~~department~~ division determines that there
6 exists a material and substantial reason for the school district to begin on
7 an earlier or later date due to very exceptional or emergency circumstances
8 such as a contagious disease outbreak, inclement weather, or other acts of
9 God.

10

11 SECTION 1078. Arkansas Code § 6-10-106(c)(2), concerning uniform dates
12 for the beginning and the end of a school year, is amended to read as
13 follows:

14 (2) Provided, upon approval of the ~~department~~ division, this
15 date may be used as a make-up day in any school district which has
16 unavoidably lost more than five (5) scheduled days of student attendance
17 during the course of the school year due to contagious disease outbreaks,
18 inclement weather, or other acts of God.

19

20 SECTION 1079. Arkansas Code § 6-10-106(d)(3), concerning uniform dates
21 for the beginning and the end of a school year, is amended to read as
22 follows:

23 (3) Nothing in this subsection shall prevent a public school
24 district from providing fewer than five (5) consecutive school days for the
25 spring break holiday to comply with the ~~department's~~ division's requirement
26 for a minimum number of days for student attendance under the Standards for
27 Accreditation of Arkansas Public Schools and School Districts.

28

29 SECTION 1080. Arkansas Code § 6-10-106(e), concerning uniform dates
30 for the beginning and the end of a school year, is amended to read as
31 follows:

32 (e) The ~~department~~ division shall not grant a waiver from the
33 requirements of this section unless this section specifically authorizes the
34 waiver.

35

36 SECTION 1081. Arkansas Code § 6-10-110(a), concerning fire marshal

1 programs for local school districts, is amended to read as follows:

2 (a) The ~~Department of Education~~ Division of Elementary and Secondary
3 Education is authorized and directed to cooperate with and assist local
4 school districts in this state in the establishment of an Arkansas school
5 fire marshal program.

6
7 SECTION 1082. Arkansas Code § 6-10-111(a), concerning the Equity
8 Assistance Center, is amended to read as follows:

9 (a) The ~~Department of Education~~ Division of Elementary and Secondary
10 Education is authorized to establish a special section within its
11 organization, to be known as the Equity Assistance Center, designed to
12 provide assistance to the school districts of the state in such activities as
13 affirmative action, program accessibility, human relations, awareness, and
14 desegregation.

15
16 SECTION 1083. Arkansas Code § 6-10-111(c)(1), concerning the Equity
17 Assistance Center, is amended to read as follows:

18 (c)(1) The center created by this section shall be the liaison for
19 the ~~department~~ division with the Office for Civil Rights of the United States
20 Department of Education.

21
22 SECTION 1084. Arkansas Code § 6-10-111(d)-(f), concerning the Equity
23 Assistance Center, are amended to read as follows:

24 (d) Annually, each local school district in the state shall provide
25 the center assurances of compliance with civil rights responsibilities in the
26 form and at the time as is designated by the Commissioner of Elementary and
27 Secondary Education.

28 (e) The ~~department~~ division may withhold state aid from any school
29 district that fails to file its assurance of compliance with civil rights
30 responsibilities by October 15 each year or fails to file any other
31 information with a published deadline requested from school districts by the
32 center so long as thirty (30) calendar days are given between the request for
33 the information and the published deadline, except that thirty (30) days
34 notice shall not be required when the request comes from a member or
35 committee of the General Assembly.

36 (f) The ~~department~~ division is authorized to develop forms and

1 promulgate appropriate rules, regulations, and procedures as may be required
2 to implement the provisions of this section.

3
4 SECTION 1085. Arkansas Code § 6-10-118(a), concerning information
5 about the availability of ARKids First, is amended to read as follows:

6 (a) The ~~Department of Education~~ Division of Elementary and Secondary
7 Education shall cooperate with and assist local school districts in this
8 state in the establishment of a program to inform students about health care
9 coverage under the ARKids First Program Act, § 20-77-1101 et seq.

10
11 SECTION 1086. Arkansas Code § 6-10-119(a)(1), concerning Medicaid
12 billing by the Department of Education, is amended to read as follows:

13 (a)(1) By May 1 of each year, the ~~Department of Education~~ Division of
14 Elementary and Secondary Education shall identify school districts that are
15 underperforming in the area of direct-service Medicaid billing.

16 (2) The ~~department~~ division shall direct identified school
17 districts to increase direct-service Medicaid billing by district staff or
18 enter into an agreement with an education service cooperative or other public
19 or private entity for the provision of direct-service Medicaid billing
20 services.

21
22 SECTION 1087. Arkansas Code § 6-10-122(c), concerning the requirement
23 of automated external defibrillators at each school campus, is amended to
24 read as follows:

25 (c) Beginning in 2011, the Commissioner of Elementary and Secondary
26 Education shall provide a report to the Senate Committee on Public Health,
27 Welfare, and Labor and the House Committee on Public Health, Welfare, and
28 Labor on or before July 1 each year regarding the implementation of this
29 section and the status of automated external defibrillator availability on
30 each school campus.

31
32 SECTION 1088. Arkansas Code § 6-10-125(d), concerning keeping a school
33 district's floor plan on file with the emergency management coordinator, is
34 amended to read as follows:

35 (d) The ~~Department of Education~~ Division of Elementary and Secondary
36 Education may adopt rules to implement this section.

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SECTION 1089. Arkansas Code § 6-10-129 is amended to read as follows:

6-10-129. Efficiency in reporting – Definition.

(a)(1)(A) The ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education may require a school district or public school to submit data and other information deemed necessary to assure that a school district or public school is in compliance with federal and state law and rule.

(B) A required submission may be made using the Arkansas Public School Computer Network or another system specified by the ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education.

(2)(A) All divisions of the ~~Department of Education~~ Division of Elementary and Secondary Education and the ~~Department~~ Division of Career and Technical Education shall have access to data and other information that is submitted to the ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education respectively.

(B) An employee of the ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education or a contractor acting on behalf of the ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education may only access data that is necessary to perform his or her duties.

(b) As used in this section, “data and other information” that is considered submitted includes information that is:

(1) Maintained by a school district or public school in E-School, E-Finance, or the Arkansas Public School Computer Network;

(2) Contained in any statewide data system or successor program;
and

(3) Delivered to the ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education in paper format.

(c)(1) The ~~Department of Education~~ Division of Elementary and Secondary Education or the ~~Department~~ Division of Career and Technical Education may require a school district or public school to resubmit or

1 explain data and other information if the data or other information is
2 determined to be inaccurate, incomplete, unclear, or not in compliance with
3 federal or state law or rule.

4 (2) Except as provided under subdivision (c)(1) of this section,
5 data and other information shall not have to be resubmitted or explained in
6 its original format or any other format.

7 (d) If the ~~Department of Education~~ Division of Elementary and
8 Secondary Education or the ~~Department~~ Division of Career and Technical
9 Education requires data or other information to be compiled into a format
10 that is different from what was originally submitted by a school district or
11 public school, the ~~Department of Education~~ Division of Elementary and
12 Secondary Education or the ~~Department~~ Division of Career and Technical
13 Education shall make the necessary format changes.

14 (e)(1) A school district or public school may submit by electronic
15 means any signatures required when submitting reports or data and other
16 information to the ~~Department of Education~~ Division of Elementary and
17 Secondary Education and the ~~Department~~ Division of Career and Technical
18 Education.

19 (2) As used in this subsection, "electronic means" means any of
20 the following:

21 (A) A scanned and emailed version of a paper document;

22 (B) A document submitted by facsimile transmission;

23 (C) An electronic signature system that includes a
24 passcode and is administered by the ~~Department of Education~~ Division of
25 Elementary and Secondary Education; or

26 (D) Other technological means approved by the ~~Department~~
27 of Education Division of Elementary and Secondary Education.

28
29 SECTION 1090. Arkansas Code § 6-10-131(b), concerning immunity from
30 civil liability, is amended to read as follows:

31 (b) Personnel of the ~~Department of Education~~ Division of Elementary
32 and Secondary Education, including without limitation the Commissioner of
33 Elementary and Secondary Education, are immune from civil liability and suit
34 for damages for the enforcement of policies adopted by the State Board of
35 Education or the ~~Department of Education~~ Division of Elementary and Secondary
36 Education if the policies are in compliance with state or federal law.

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SECTION 1091. Arkansas Code § 6-11-101(d)(2), concerning members of the State Board of Education, is amended to read as follows:

(2) Neither the Commissioner of Elementary and Secondary Education nor any candidate for public office, holder of a public office in the state, schoolteacher, county or city superintendent, employee of a state-supported college or university, or member of any board of trustees of any state institution of higher education shall serve as a member of the state board.

SECTION 1092. Arkansas Code § 6-11-102(a), concerning the Commissioner of Education, is amended to read as follows:

(a)(1) Subject to confirmation by the Governor, the State Board of Education is empowered to employ a person to act as the Commissioner of Elementary and Secondary Education and who shall be the administrative head of the ~~Department of Education~~ Division of Elementary and Secondary Education.

(2) The commissioner shall serve at the pleasure of the Governor.

(3) The commission shall report to the Secretary of the Department of Education.

SECTION 1093. Arkansas Code § 6-11-102(c)(1)(A), concerning the Commissioner of Education, is amended to read as follows:

(A) Be a person of good moral character, recognized as a leader in the field of education, and qualified technically and by experience to direct the work of the ~~department~~ division; and

SECTION 1094. Arkansas Code § 6-11-103(b), concerning officers of the State Board of Education, is amended to read as follows:

(b) The Commissioner of Elementary and Secondary Education shall act as ex officio secretary of the state board without a vote.

SECTION 1095. Arkansas Code § 6-11-104(c)(1), concerning meetings of the State Board of Education, is amended to read as follows:

(c)(1) Special meetings may be called by the chair of the state board

1 with no less than twenty-four (24) hours notice to the members and the
2 Commissioner of Elementary and Secondary Education and with timely responses
3 from enough state board members that they will attend the meeting so as to
4 indicate that a quorum will be present.

5
6 SECTION 1096. Arkansas Code § 6-11-105(a)(8)(B), concerning the powers
7 and duties of the State Board of Education, is amended to read as follows:

8 (B) However, this section shall not prohibit the state
9 board and the ~~Department of Education~~ Division of Elementary and Secondary
10 Education from issuing teachers' licenses upon the results of teachers'
11 examinations as now provided by law;

12
13 SECTION 1097. Arkansas Code § 6-11-105(a)(9), concerning the powers
14 and duties of the State Board of Education, is amended to read as follows:

15 (9) Eliminate unnecessary reports and paperwork by yearly
16 identifying and compiling a list of all reports that are required from local
17 school districts by the ~~department~~ division or the state board for the school
18 year;

19
20 SECTION 1098. Arkansas Code § 6-11-105(a)(10), concerning the powers
21 and duties of the State Board of Education, is amended to read as follows:

22 (10) Adopt policies to ensure, except as allowed under
23 subsection (b) of this section, that local school districts are not required
24 by the state board or the ~~department~~ division to:

25 (A) Provide information that is already available on a
26 ~~department~~ division student information management system or housed within
27 the ~~department~~ division;

28 (B) Provide the same written information more than one (1)
29 time during a school year unless the information has changed during the
30 school year; or

31 (C) Complete forms for children with disabilities that are
32 not necessary to ensure compliance with federal statutes and regulations,
33 including, but not limited to, the Individuals with Disabilities Education
34 Act, state mandates, and corresponding appropriations governing the provision
35 of special education services to students with disabilities; and

36

1 SECTION 1099. Arkansas Code § 6-11-105(a)(11)(B), concerning the
2 powers and duties of the State Board of Education, is amended to read as
3 follows:

4 (B) The state board may designate the authority granted
5 under this subdivision (a)(11) to the Commissioner of Elementary and
6 Secondary Education.
7

8 SECTION 1100. Arkansas Code § 6-11-105(a), concerning the powers and
9 duties of the State Board of Education, is amended to add an additional
10 subdivision to read as follows:

11 (12) Have general supervision of career and technical education.
12

13 SECTION 1101. Arkansas Code § 6-11-105(b) and (c), concerning the
14 powers and duties of the State Board of Education, is amended to read as
15 follows:

16 (b) The state board may require information available on a ~~department~~
17 division student information management system or require the same
18 information twice if the state board can demonstrate a compelling need and
19 can demonstrate there is not a more expeditious manner of getting the
20 information.

21 (c) The state board may organize and, from time to time, change and
22 alter the ~~department~~ division into branches or sections as may be found
23 necessary and desirable by the commissioner to perform all proper functions
24 and to render maximum service relating to the operation and improvement of
25 the general education programs of the state.
26

27 SECTION 1102. Arkansas Code § 6-11-107 is amended to read as follows:
28 6-11-107. Official seal.

29 The State Board of Education shall adopt a seal, and the seal shall be
30 used by the Commissioner of Elementary and Secondary Education to
31 authenticate documents or copies of documents as the state board or
32 commissioner may deem advisable.
33

34 SECTION 1103. Arkansas Code § 6-11-110(b), concerning the uniform
35 system of records and reports by the State Board of Education, is amended to
36 read as follows:

1 (b) All the school officials and employees listed in subsection (a) of
2 this section shall make reports to the Commissioner of Elementary and
3 Secondary Education as may be designated by the state board.

4
5 SECTION 1104. Arkansas Code § 6-11-111(a), concerning records of
6 proceedings and the annual report of the State Board of Education, is amended
7 to read as follows:

8 (a) The State Board of Education shall keep in the office of the
9 Commissioner of Elementary and Secondary Education a complete record of the
10 minutes of its meetings and other proceedings and annually shall make a
11 report to the Governor that shall embody the report of the commissioner to
12 the state board.

13
14 SECTION 1105. Arkansas Code § 6-11-111(c)(1), concerning records of
15 proceedings and the annual report of the State Board of Education, is amended
16 to read as follows:

17 (c)(1) Each annual report of the state board shall be printed by the
18 state board and distributed among the various school officers of the state or
19 made available to public school districts by including a link to the annual
20 report on the ~~Department of Education~~ Division of Elementary and Secondary
21 Education website.

22
23 SECTION 1106. Arkansas Code § 6-11-117 is amended to read as follows:
24 6-11-117. Copies of documents as evidence.

25 Copies of any papers or documents on file in the office of the
26 Commissioner of Elementary and Secondary Education authenticated by him or
27 her with the seal of the State Board of Education shall be admissible in
28 evidence with the same effect as the original.

29
30 SECTION 1107. Arkansas Code § 6-11-124 is amended to read as follows:
31 6-11-124. Statewide computer network.

32 (a)(1) Acts 1991, No. 1034, authorizes the Board of Trustees of the
33 Arkansas Teacher Retirement System to provide a loan to the Department of
34 Education, now known as the Division of Elementary and Secondary Education,
35 for a statewide computer system capable of linking all public school systems
36 and the department.

1 (2) In order to provide alternatives to accomplish the purposes
2 of Acts 1991, No. 1034, the department, now division, is hereby authorized to
3 enter into a contractual agreement with IMPAC Learning Systems, Inc., for the
4 development of a statewide computer system capable of linking all public
5 school systems and the department, now division, from funds provided by a
6 loan from the Arkansas Teacher Retirement System.

7 (b) The State Board of Education shall maintain oversight authority
8 over the approval of all standards, procedures, and specifications determined
9 by the department, now division, regarding the purchase or lease of the
10 statewide computer network in addition to maintaining oversight authority
11 over the operational aspects of the system.

12 (c) The Commissioner of Elementary and Secondary Education may request
13 from the Chief Fiscal Officer of the State a transfer of appropriation
14 authorized for school district management and statewide data collection by
15 the General Assembly to any other line item appropriation authorized for the
16 department, now division, for the same purpose.

17
18 SECTION 1108. Arkansas Code § 6-11-125 is amended to read as follows:
19 6-11-125. Legislative intent regarding information technology.

20 (a) The General Assembly finds that the State of Arkansas has provided
21 the encouragement and the financial means to build a foundation for an
22 information technology network linking local school districts and the
23 ~~Department of Education~~ Division of Elementary and Secondary Education. The
24 General Assembly further finds that the amount of information that local
25 school districts and their personnel are required to furnish the ~~department~~
26 division, while essential, has become increasingly burdensome. The General
27 Assembly therefore expresses its intent and commitment to ensuring that the
28 ~~department~~ division utilizes and continually upgrades to the fullest extent
29 possible the information technology network linking the various school
30 districts and the ~~department~~ division.

31 (b) The State Board of Education, acting through the ~~department~~
32 division, shall use every means available to eliminate the amount of
33 paperwork required by state law and regulations to be reported from each
34 local school district by utilizing to the fullest extent possible, beginning
35 no later than July 1, 1998, the information technology network linking local
36 school districts and the ~~department~~ division.

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SECTION 1109. Arkansas Code § 6-11-126 is amended to read as follows:
6-11-126. Computer funds approval.

Before the ~~Department of Education~~ Division of Elementary and Secondary Education obligates any funds for the purchase or lease of a computer for the Arkansas Public School Computer Network, the ~~department~~ division shall first seek prior review from the Joint Interim Oversight Subcommittee on Educational Reform.

SECTION 1110. Arkansas Code § 6-11-128(a)(1), concerning the Arkansas Public School Computer Network, is amended to read as follows:

(a)(1) As used in this section, “Arkansas Public School Computer Network” or “APSCN” means the ~~Department of Education~~ Division of Elementary and Secondary Education’s computer network system for public school district reporting of financial management data and student management data to the ~~Department of Education~~ Division of Elementary and Secondary Education.

SECTION 1111. The introductory language of Arkansas Code § 6-11-128(b), concerning the Arkansas Public School Computer Network, is amended to read as follows:

(b) The ~~Department of Education~~ Division of Elementary and Secondary Education shall implement the use of policies, procedures, and personnel to provide for data quality and security with the Arkansas Public School Computer Network, including without limitation the following:

SECTION 1112. Arkansas Code § 6-11-128(b)(1), concerning the Arkansas Public School Computer Network, is amended to read as follows:

(1) Periodically conducting a thorough security review and security risk assessment for all information, including without limitation personally identifiable employee and student information, that originates in the school districts and terminates on ~~Department~~ the Division of Information Systems and Arkansas Public School Computer Network servers;

SECTION 1113. Arkansas Code § 6-11-128(b)(4), concerning the Arkansas Public School Computer Network, is amended to read as follows:

(4) Creating and maintaining a process for documenting and

1 monitoring the quality of data from its source of entry into the network to
2 any educational data repository in the ~~Department of Education~~ Division of
3 Elementary and Secondary Education;

4
5 SECTION 1114. The introductory language of Arkansas Code § 6-11-
6 128(c)(1)(A), concerning the Arkansas Public School Computer Network, is
7 amended to read as follows:

8 (c)(1)(A) ~~Beginning with the 2007-2008 school year, the Department of~~
9 ~~Education~~ The Division of Elementary and Secondary Education shall:

10
11 SECTION 1115. Arkansas Code § 6-11-128(c)(2)(A)-(C), concerning the
12 Arkansas Public School Computer Network, is amended to read as follows:

13 (2)(A) ~~Beginning with the 2008-2009 school year, the Department~~
14 ~~of Education~~ The Division of Elementary and Secondary Education shall release
15 monthly from the Arkansas Public School Computer Network selected financial
16 and student management data submitted by public school districts for the
17 previous month.

18 (B) The General Assembly and the ~~Department of Education~~
19 Division of Elementary and Secondary Education shall determine by mutual
20 agreement what financial and student management data will be selected for the
21 monthly release.

22 (C) The ~~Department of Education~~ Division of Elementary
23 and Secondary Education shall make the information available to the General
24 Assembly in the Arkansas Public School Computer Network data warehouse by the
25 tenth business day of each month.

26
27 SECTION 1116. Arkansas Code § 6-11-129(a)(1)(A)(v), concerning data
28 school districts shall make accessible on a website, is amended to read as
29 follows:

30 (v) The school district budget for the ensuing year,
31 which shall be posted on the website within thirty (30) days following the
32 date required to be submitted to the ~~Department of Education~~ Division of
33 Elementary and Secondary Education;

34
35 SECTION 1117. Arkansas Code § 6-11-129(b), concerning data school
36 districts shall make accessible on a website, is amended to read as follows:

1 (b) The ~~department~~ division shall make the information and data
2 required by this section available and easily accessible on the ~~department's~~
3 division's website by including direct links to the websites of all Arkansas
4 school districts.

5
6 SECTION 1118. Arkansas Code § 6-11-201(a), concerning the Director of
7 the Department of Career Education, is amended to read as follows:

8 (a)(1) The Director of the ~~Department~~ Division of Career and Technical
9 Education, or a disbursing agent designated by him or her and approved by the
10 ~~Career Education and Workforce Development Board~~ State Board of Education,
11 shall give bond to the State of Arkansas as provided by law for other
12 disbursing agents conditioned for the faithful performance of his or her
13 duties and the faithful accounting for all the school money of the state, of
14 any county, or of any school district that may come into his or her hands.

15
16 SECTION 1119. Arkansas Code § 6-11-208(a)(1) and (2), concerning the
17 formation of the multiagency task force for the Regional Education Career
18 Alternative School System for Adjudicated Youth, are amended to read as
19 follows:

20 (a)(1) A multiagency task force, staffed and supported by the
21 ~~Department~~ Division of Career and Technical Education, is established and
22 shall consist of five (5) members, including:

23 (A) The Commissioner of Elementary and Secondary Education
24 or his or her designee;

25 (B) The Director of the ~~Department~~ Division of Career and
26 Technical Education or his or her designee;

27 (C) The Director of the ~~Department~~ Division of Higher
28 Education or his or her designee;

29 (D) The ~~Director~~ Secretary of the Department of Human
30 Services or his or her designee; and

31 (E) The Director of the ~~Department~~ Division of Workforce
32 Services or his or her designee.

33 (2) Funding for the multiagency task force shall be provided by:

34 (A) The ~~Department~~ Division of Career and Technical
35 Education; or

36 (B) Each agency that serves on the multiagency task force,

1 in an equal amount from available, eligible funding.

2
3 SECTION 1120. Arkansas Code § 6-13-113 is amended to read as follows:
4 6-13-113. School district desegregation orders – Orders.

5 (a) By January 1, 2016, a school district that is subject to a
6 desegregation order or desegregation-related order shall notify the
7 ~~Department of Education~~ Division of Elementary and Secondary Education in
8 writing.

9 (b) A school district that is subject to a desegregation order or a
10 desegregation-related order shall include in the written notice to the
11 ~~department~~ division:

12 (1) A copy of the desegregation order or desegregation-related
13 order;

14 (2) The case heading and case number of each court case in which
15 the order was entered;

16 (3) The name and location of each court that maintains
17 jurisdiction over the order; and

18 (4) A description of the school choice student transfer
19 desegregation obligations, if any, that the school district is subject to,
20 related to the order.

21 (c) A school district that is released from court supervision related
22 to a desegregation order or desegregation-related order shall promptly notify
23 the ~~department~~ division.

24 (d) A school district that fails to meet the requirements of this
25 section is in violation of the Standards for Accreditation of Arkansas Public
26 Schools and School Districts.

27 (e) The ~~department~~ division shall post on the ~~department's~~ division's
28 website all written notifications received as required by this section.

29
30 SECTION 1121. Arkansas Code § 6-13-631(h), concerning the effect of
31 minority populations on elections, is amended to read as follows:

32 (h)(1)(A) On or before August 1, 2002, and every decade thereafter,
33 each and every school district shall submit to the ~~Department of Education~~
34 Division of Elementary and Secondary Education a letter stating whether or
35 not its school district board of directors falls under this section.

36 (B) In that same letter, each school district that falls

1 under this section shall state how it has complied with this section.

2 (C) Furthermore, in the same letter, any school district
3 that believes that it is exempt from this section shall state under which
4 provision it is exempt.

5 (2) The ~~department~~ division shall withhold twenty percent (20%)
6 of the annual state funds allocation to a school district not in compliance
7 with this section.

8

9 SECTION 11122. Arkansas Code § 6-13-635(b)(2)(B), concerning the
10 school board review and approval of salary increases, is amended to read as
11 follows:

12 (B) Within thirty (30) days following the date of an audit
13 report in which an auditor notes noncompliance under this section, the school
14 district shall provide a copy of the audit report to the ~~Department of~~
15 Education Division of Elementary and Secondary Education.

16

17 SECTION 1123. The introductory language of Arkansas Code § 6-13-
18 635(b)(2)(C), concerning the school board review and approval of salary
19 increases, is amended to read as follows:

20 (C) Annually by October 1, the ~~department~~ division shall:

21

22 SECTION 1124. Arkansas Code § 6-13-701(c) and (d), concerning the
23 powers and duties of the board of directors of Arkansas school districts, are
24 amended to read as follows:

25 (c) An executed certificate of appointment shall be filed with the
26 county clerk, the county treasurer, and the ~~Director~~ Secretary of the
27 Department of Finance and Administration.

28 (d) School district treasurers shall execute a surety bond in such
29 amount as may be required by the ~~director~~ secretary, who shall approve the
30 bond. The premium on the bond shall be paid out of the funds of the school
31 district.

32

33 SECTION 1125. Arkansas Code § 6-13-701(e)(2), concerning the powers
34 and duties of school district boards of directors in Arkansas, is amended to
35 read as follows:

36 (2) To keep a record of all financial transactions of the school

1 district on forms approved by the ~~Department of Education~~ Division of
2 Elementary and Secondary Education and the Arkansas Legislative Audit;

3
4 SECTION 1126. Arkansas Code § 6-13-701(e)(5), concerning the powers
5 and duties of school district boards of directors in Arkansas, is amended to
6 read as follows:

7 (5) To make such financial reports to the ~~Department of~~
8 Education Division of Elementary and Secondary Education as are required by
9 law;

10
11 SECTION 1127. Arkansas Code § 6-13-701(g)(2)(B), concerning the powers
12 and duties of school district boards of directors in Arkansas, is amended to
13 read as follows:

14 (B) All activity funds and school food service funds shall
15 be maintained and accounted for in accordance with guidelines and procedures
16 established by the ~~Department of Education~~ Division of Elementary and
17 Secondary Education.

18
19 SECTION 1128. Arkansas Code § 6-13-808(a), concerning the Arkansas
20 Traveling Teacher Program, is amended to read as follows:

21 (a) The Arkansas Traveling Teacher Program is hereby established and
22 shall be administered by the ~~Department of Education~~ Division of Elementary
23 and Secondary Education with the assistance of public school districts and
24 education service cooperatives.

25
26 SECTION 1129. The introductory language of Arkansas Code § 6-13-
27 808(b)(2), concerning the Arkansas Traveling Teacher Program, is amended to
28 read as follows:

29 (2) The parties shall enter into a written agreement, in the
30 form established by the ~~Department of Education~~ Division of Elementary and
31 Secondary Education, that shall include without limitation the following:

32
33 SECTION 1130. Arkansas Code § 6-13-808(b)(2)(G)(ii), concerning the
34 Arkansas Traveling Teacher Program, is amended to read as follows:

35 (ii) The ~~Department of Education~~ Division of
36 Elementary and Secondary Education shall not approve an agreement under this

1 section unless the agreement requires the traveling teacher to be physically
2 present in the receiving school district while the traveling teacher is
3 teaching any course specified in the agreement.

4
5 SECTION 1131. Arkansas Code § 6-13-808(b)(3), concerning the Arkansas
6 Traveling Teacher Program, is amended to read as follows:

7 (3) The agreement shall be reviewed and approved by the
8 ~~Department of Education~~ Division of Elementary and Secondary Education under
9 subsection (f) of this section.

10
11 SECTION 1132. The introductory language of Arkansas Code § 6-13-
12 808(c), concerning the Arkansas Traveling Teacher Program, is amended to read
13 as follows:

14 (c) To the extent the agreement is approved by the ~~Department of~~
15 ~~Education~~ Division of Elementary and Secondary Education:

16
17 SECTION 1133. Arkansas Code § 6-13-808(c)(1)(B), concerning the
18 Arkansas Traveling Teacher Program, is amended to read as follows:

19 (B) The ~~Department of Education~~ Division of Elementary and
20 Secondary Education shall reimburse the host school district for the amount
21 of bonus paid to the traveling teacher; and

22
23 SECTION 1134. Arkansas Code § 6-13-808(c)(2)(B), concerning the
24 Arkansas Traveling Teacher Program, is amended to read as follows:

25 (B) The ~~Department of Education~~ Division of Elementary and
26 Secondary Education shall reimburse the host school district for the amount
27 of travel reimbursement paid by the host school district to the traveling
28 teacher.

29
30 SECTION 1135. Arkansas Code § 6-13-808(d)-(g), concerning the Arkansas
31 Traveling Teacher Program, are amended to read as follows:

32 (d) Neither the ~~Department of Education~~ Division of Elementary and
33 Secondary Education nor the State of Arkansas shall be obligated or liable to
34 reimburse any bonus or travel expenses incurred under an agreement for
35 traveling teacher services under this section if the ~~Department of Education~~
36 Division of Elementary and Secondary Education has not reviewed and approved

1 the entire agreement.

2 (e) The ~~Department of Education~~ Division of Elementary and Secondary
3 Education may, if feasible and if funding is available, establish an online
4 registry of public school teachers willing to enter into an agreement for
5 traveling teacher services under this section with information concerning the
6 teacher's employing school district and any course the teacher is qualified
7 to teach.

8 (f)(1) All proposed agreements among a host school district, a
9 receiving school district, and a traveling teacher shall be submitted to the
10 ~~Department of Education~~ Division of Elementary and Secondary Education by a
11 date certain for review and approval by the ~~Department of Education~~ Division
12 of Elementary and Secondary Education.

13 (2) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education shall review each agreement with all requisite authority
15 to approve or deny the agreement based on the provisions of law, rule,
16 availability of funding, and discretionary determination as to the best use
17 of state resources and funding.

18 (3) The ~~Department of Education~~ Division of Elementary and
19 Secondary Education shall endeavor to consider approval of an agreement to:

20 (A) Place a traveling teacher with a receiving school
21 district to maximize the efficiency of the traveling teacher's service to
22 both the host and receiving school districts; and

23 (B) Minimize the extent and duration of any travel
24 required.

25 (g)(1) The ~~Department of Education~~ Division of Elementary and
26 Secondary Education shall establish any rules and agreement forms necessary
27 for the administration of the Arkansas Traveling Teacher Program.

28 (2) In establishing the rules, the ~~Department of Education~~
29 Division of Elementary and Secondary Education shall:

30 (A) Prioritize the approval of agreements for traveling
31 teacher services based on subject-area course needs;

32 (B) Establish appropriate travel limitations;

33 (C) Develop a method of equitable distribution of
34 traveling teachers among the area's education service cooperatives; and

35 (D) Provide a means by which education service
36 cooperatives may assist in facilitating traveling teachers.

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SECTION 1136. Arkansas Code § 6-13-903(c), concerning the powers of public school districts, is amended to read as follows:

(c) The ~~Department of Education~~ Division of Elementary and Secondary Education shall not distribute state equalization aid directly to any educational cooperative.

SECTION 1137. Arkansas Code § 6-13-905(c), concerning the board of directors of cooperating school districts, is amended to read as follows:

(c) Policies for the operation of the educational cooperative will be developed by the board of directors and be filed with the ~~Department of Education~~ Division of Elementary and Secondary Education as required by law of school districts generally.

SECTION 1138. Arkansas Code § 6-13-906 is amended to read as follows:
6-13-906. Rules, regulations, and reports.

(a) The educational cooperative will:

(1) Abide by all rules and regulations of the ~~Department of Education~~ Division of Elementary and Secondary Education which apply to school districts generally; and

(2) Make all reports as required by law and regulation which apply to school districts generally to the ~~department~~ Division of Elementary and Secondary Education.

(b)(1) Records of the expenditures and receipts of the educational cooperatives shall be kept in such manner and on such forms as may be specified by the ~~department~~ Division of Elementary and Secondary Education or the School Audit Section of Arkansas Legislative Audit.

(2) Reports on expenditures and receipts shall be made for the cooperative as a single agency or shall be made separately by the school districts to reflect the status of each member school district at such time and in such manner as specified by the ~~department~~ Division of Elementary and Secondary Education.

SECTION 1139. Arkansas Code § 6-13-1002(b)(3), concerning the establishment and functions of the educational service cooperatives, is amended to read as follows:

1 (3) Promoting coordination between school districts and the
2 ~~Department of Education~~ Division of Elementary and Secondary Education in
3 order to provide services which are consistent with the needs identified by
4 school districts and the educational priorities of the state as established
5 by the General Assembly or the state board.

6
7 SECTION 1140. Arkansas Code § 6-13-1011(a)(2), concerning personnel of
8 education service cooperatives, is amended to read as follows:

9 (2) In lieu of a salary schedule, an education service
10 cooperative annually may submit to the ~~Department of Education~~ Division of
11 Elementary and Secondary Education a complete listing of all employees of the
12 education service cooperative and each employee's position, salary, and
13 benefits.

14
15 SECTION 1141. Arkansas Code § 6-13-1012 is amended to read as follows:
16 6-13-1012. Agency personnel.

17 With the approval of an education service cooperative's governing body,
18 the ~~directors in the Department of Education~~ Director of the Division of
19 Elementary and Secondary Education may assign state educational agency
20 personnel to that education service cooperative.

21
22 SECTION 1142. Arkansas Code § 6-13-1014 is amended to read as follows:
23 6-13-1014. Sharing and coordination of activities – Liaison.

24 (a) The ~~Department of Education~~ Division of Elementary and Secondary
25 Education shall encourage sharing and coordination of activities among the
26 education service cooperatives.

27 (b) The Commissioner of Elementary and Secondary Education shall name
28 a person to serve as liaison between the ~~department~~ division and the
29 education service cooperatives.

30 (c) This liaison shall provide information on resources and programs
31 and be the general contact person in the ~~department~~ division for the
32 education service cooperatives.

33
34 SECTION 1143. Arkansas Code § 6-13-1016(c), concerning annual surveys
35 and needs assessments of education service cooperatives, is amended to read
36 as follows:

1 (c) Each education service cooperative shall work with the ~~Department~~
2 ~~of Education~~ Division of Elementary and Secondary Education to conduct
3 statewide surveys which complement, rather than duplicate, the work of the
4 ~~department~~ division.

5
6 SECTION 1144. Arkansas Code § 6-13-1020(a)(3)(A), concerning policies,
7 procedures, expenditures, reports, and audits to be filed with the State
8 Board of Education, is amended to read as follows:

9 (3)(A) A report of its receipts and expenditures made in
10 accordance with uniform accounting procedures adopted by the Commissioner of
11 Elementary and Secondary Education.

12
13 SECTION 1145. Arkansas Code § 6-13-1020(b), concerning policies,
14 procedures, expenditures, reports, and audits to be filed with the State
15 Board of Education, is amended to read as follows:

16 (b) The ~~Department of Education~~ Division of Elementary and Secondary
17 Education may prescribe the forms and procedures for filing the information
18 required by subsection (a) of this section.

19
20 SECTION 1146. Arkansas Code § 6-13-1020(d)(2), concerning policies,
21 procedures, expenditures, reports, and audits to be filed with the State
22 Board of Education, is amended to read as follows:

23 (2) The education service cooperative shall supplement its
24 report with written reports to each school district and to the ~~department~~
25 division on a school-by-school, service-by-service accounting basis.

26
27 SECTION 1147. Arkansas Code § 6-13-1021(a), concerning evaluations and
28 performance ratings of education service cooperatives, is amended to read as
29 follows:

30 (a) Each education service cooperative shall be evaluated during the
31 2012-2013 school year, and at least once within each five-year period, on a
32 schedule established by the Commissioner of Elementary and Secondary
33 Education, all active education service cooperatives must be visited by an
34 evaluation committee of not more than nine (9) persons.

35
36 SECTION 1148. Arkansas Code § 6-13-1021(b)(1)(B), concerning

1 evaluations and performance ratings of education service cooperatives, is
2 amended to read as follows:

3 (B) The final evaluation, including any self-evaluation,
4 shall be included in the annual report to the ~~Department of Education~~
5 Division of Elementary and Secondary Education, § 6-13-1020, and made
6 available on the website of the education service cooperative.

7
8 SECTION 1149. Arkansas Code § 6-13-1021(b)(2)(A), concerning
9 evaluations and performance ratings of education service cooperatives, is
10 amended to read as follows:

11 (2)(A) The evaluation criteria shall be developed
12 collaboratively between the ~~department~~ division and the director of each
13 education service cooperative.

14
15 SECTION 1150. Arkansas Code § 6-13-1021(e), concerning evaluations and
16 performance ratings of education service cooperatives, is amended to read as
17 follows:

18 (e) The ~~department~~ division shall promulgate rules necessary for
19 implementing this section.

20
21 SECTION 1151. Arkansas Code § 6-13-1021(f)(2)(A), concerning
22 evaluations and performance ratings of education service cooperatives, is
23 amended to read as follows:

24 (A) A ~~Department of Education~~ Division of Elementary and
25 Secondary Education staff member;

26
27 SECTION 1152. The introductory language of Arkansas Code § 6-13-
28 1027(b), concerning the Education Service Cooperative Act of 1985, is amended
29 to read as follows:

30 (b) Any education service cooperative that meets one (1) or more of
31 the following criteria may be identified by the ~~Department of Education~~
32 Division of Elementary and Secondary Education as being in fiscal distress
33 upon final approval of the State Board of Education:

34
35 SECTION 1153. Arkansas Code § 6-13-1027(b)(1)(B), concerning the
36 Education Service Cooperative Act of 1985, is amended to read as follows:

1 (B) The ~~department~~ division shall not use capital outlay
2 expenditures from the education service cooperative's balance for facilities
3 to identify the education service cooperative as being in fiscal distress;
4

5 SECTION 1154. Arkansas Code § 6-13-1027(b)(8), concerning the
6 Education Service Cooperative Act of 1985, is amended to read as follows:

7 (8) Any other fiscal condition of the education service
8 cooperative that the ~~department~~ division determines materially impacts the
9 education service cooperative's delivery of education services.
10

11 SECTION 1155. Arkansas Code § 6-13-1027(c) and (d), concerning the
12 Education Service Cooperative Act of 1985, are amended to read as follows:

13 (c)(1) The ~~department~~ division may identify an education service
14 cooperative as being in fiscal distress at any time a fiscal condition of the
15 education service cooperative is discovered to have a detrimental negative
16 impact on the continuation of educational services provided by the education
17 service cooperative.

18 (2)(A) If the ~~department~~ division identifies an education
19 service cooperative as being in fiscal distress, the ~~department~~ division
20 shall notify the education service cooperative in writing of the
21 identification of fiscal distress within ten (10) calendar days.

22 (B) The ~~department~~ division shall identify in the notice
23 each criteria for fiscal distress on which the ~~department~~ division based the
24 identification of fiscal distress.

25 (C) The ~~department~~ division shall deliver the notice by
26 certified mail, return receipt requested, and addressed to:

27 (i) The president of the education service
28 cooperative's board of directors; and

29 (ii) The director of the education service
30 cooperative employed under § 6-13-1010.

31 (d) The identification of fiscal distress made by the ~~department~~
32 division under this section may be appealed to the state board under § 6-13-
33 1031 in which case the final order entered upon appeal is the final
34 classification of fiscal distress.
35

36 SECTION 1156 Arkansas Code § 6-13-1027(e)(2), concerning the Education

1 Service Cooperative Act of 1985, is amended to read as follows:

2 (2) File with the ~~department~~ division a fiscal distress plan
3 under § 6-13-1028.

4
5 SECTION 1157. The introductory language of Arkansas Code § 6-13-
6 1028(a), concerning the fiscal distress plan, is amended to read as follows:

7 (a) An education service cooperative that is classified by the State
8 Board of Education as being in fiscal distress shall file with the ~~Department~~
9 ~~of Education~~ Division of Elementary and Secondary Education a fiscal distress
10 plan that:

11
12 SECTION 1158. Arkansas Code § 6-13-1028(b) and (c), concerning the
13 fiscal distress plan, are amended to read as follows:

14 (b) The ~~department~~ division shall approve the fiscal distress plan
15 before the education service cooperative implements the fiscal distress plan.

16 (c) An education service cooperative identified as being in fiscal
17 distress is required to receive on-site technical evaluation and assistance
18 from the ~~department~~ division.

19
20 SECTION 1159. The introductory language of Arkansas Code § 6-13-
21 1029(a), concerning fiscal distress actions, is amended to read as follows:

22 (a) To address the identified areas of fiscal distress of an education
23 service cooperative, the ~~Department of Education~~ Division of Elementary and
24 Secondary Education shall:

25
26 SECTION 1160. Arkansas Code § 6-13-1029(a)(1)(B), concerning fiscal
27 distress actions, is amended to read as follows:

28 (B) The recommendations of the ~~department~~ division are
29 binding on the education service cooperative;

30
31 SECTION 1161. The introductory language of Arkansas Code § 6-13-
32 1029(b), concerning fiscal distress actions, is amended to read as follows:

33 (b) The ~~department~~ division also may take one (1) or more of the
34 following actions:

35
36 SECTION 1162. Arkansas Code § 6-13-1029(b)(1)(A)(ii) and (iii),

1 concerning fiscal distress actions, are amended to read as follows:

2 (ii) An individual appointed to replace the director
3 shall administratively operate the education service cooperative under the
4 supervision and approval of the Commissioner of Elementary and Secondary
5 Education.

6 (iii) The ~~department~~ division may compensate
7 ~~nond~~department nonddivision agents operating the education service cooperative
8 from the education service cooperative's funding; and

9
10 SECTION 1163. Arkansas Code § 6-13-1029(c), concerning fiscal distress
11 actions, is amended to read as follows:

12 (c) Within two (2) consecutive school years of the State Board of
13 Education's final classification of fiscal distress, the ~~department~~ division
14 shall determine whether to recommend that the education service cooperative
15 be removed from fiscal distress status.

16
17 SECTION 1164. The introductory language of Arkansas Code § 6-13-
18 1030(a), concerning the removal from fiscal distress status, is amended to
19 read as follows:

20 (a) The ~~Department of Education~~ Division of Elementary and Secondary
21 Education shall certify in writing to the education service cooperative that
22 the education service cooperative may be removed from fiscal distress status
23 when the ~~department~~ division determines that the education service
24 cooperative has:

25
26 SECTION 1165. Arkansas Code § 6-13-1030(a)(2), concerning the removal
27 from fiscal distress status, is amended to read as follows:

28 (2) Complied with all ~~department~~ division recommendations and
29 requirements for removal from fiscal distress status.

30
31 SECTION 1166. Arkansas Code § 6-13-1030(b)(2), concerning removal from
32 fiscal distress status, is amended to read as follows:

33 (2) An education service cooperative may not petition the state
34 board for removal from fiscal distress status before the ~~department~~ division
35 makes the certification under subsection (a) of this section.

36

1 SECTION 1167. Arkansas Code § 6-13-1031(b), concerning an appeal by an
2 education service cooperative regarding its identification of fiscal
3 distress, is amended to read as follows:

4 (b) The education service cooperative may lodge an appeal by filing a
5 written appeal with the Commissioner of Elementary and Secondary Education by
6 certified mail, return receipt requested, within thirty (30) days of the date
7 the education service cooperative received notice of the identification of
8 fiscal distress.

9
10 SECTION 1168. Arkansas Code § 6-13-1031(e), concerning an appeal by an
11 education service cooperative regarding its identification of fiscal
12 distress, is amended to read as follows:

13 (e) Notwithstanding any appeal rights in this section, no appeal shall
14 stay the state board's or the ~~Department of Education's~~ Division of
15 Elementary and Secondary Education's authority to take action to enforce the
16 education service cooperative's compliance with financial management,
17 accounting, auditing, and reporting procedures required by state or federal
18 law and regulations.

19
20 SECTION 1169. Arkansas Code § 6-13-1104 is amended to read as follows:
21 6-13-1104. Powers and duties.

22 Any model rural early childhood consortium created pursuant to this
23 subchapter shall have the authority to petition the ~~Department of Education~~
24 Division of Elementary and Secondary Education or the State Board of
25 Education for waivers from present school standards to fulfill the purposes
26 set forth in § 6-13-1101.

27
28 SECTION 1170. Arkansas Code § 6-13-1106(a)(2), concerning the criteria
29 for an educational consortium, is amended to read as follows:

30 (2) The ~~Department of Education~~ Division of Elementary and
31 Secondary Education shall determine which applications are accepted in
32 accordance with the state board's published criteria.

33
34 SECTION 1171. Arkansas Code § 6-13-1308 is amended to read as follows:
35 6-13-1308. Assistance by ~~Department of Education~~ Division of
36 Elementary and Secondary Education.

1 (a) The ~~Department of Education~~ Division of Elementary and Secondary
2 Education may develop sample guidelines to assist local boards of directors
3 in the development of their policies.

4 (b) The ~~department~~ division may provide professional development
5 activities to assist schools in implementing site-based decision making.
6

7 SECTION 1172. Arkansas Code § 6-13-1404(d)(2)(B), concerning the
8 conditions under which the State Board of Education may consolidate school
9 districts, is amended to read as follows:

10 (B) It shall be the duty of the ~~Department of Education~~
11 Division of Elementary and Secondary Education to make changes in the maps of
12 the school districts to properly show the boundary lines of the resulting
13 district or districts.
14

15 SECTION 1173. Arkansas Code § 6-13-1414(d), concerning a boundary
16 change by the State Board of Education, is amended to read as follows:

17 (d) Upon an order from the state board to change or adjust boundary
18 lines, it shall be the duty of the ~~Department of Education~~ Division of
19 Elementary and Secondary Education to immediately make changes in the maps of
20 the school districts of the county to show the changes of boundaries.
21

22 SECTION 1174. The introductory language of Arkansas Code § 6-13-1602,
23 concerning the publication of an administrative consolidation list, is
24 amended to read as follows:

25 By January 1 of each year, the ~~Department of Education~~ Division of
26 Elementary and Secondary Education shall publish a:
27

28 SECTION 1175. Arkansas Code § 6-13-1603(a)(1), concerning
29 administrative reorganization, is amended to read as follows:

30 (a)(1) Any school district included in the ~~Department of Education's~~
31 Division of Elementary and Secondary Education's consolidation list under §
32 6-13-1602 may voluntarily agree to administratively consolidate with or be
33 annexed to another school district or districts in accordance with the
34 requirements and limitations of this section.
35

36 SECTION 1176. Arkansas Code § 6-13-1603(g)(2), concerning

1 administrative reorganization, is amended to read as follows:

2 (2) The school district fails to comply with the Standards for
3 Accreditation of Arkansas Public Schools and School Districts issued by the
4 ~~department~~ division.

5
6 SECTION 1177. Arkansas Code § 6-13-1608(c)-(f), concerning an audit of
7 all school districts by Arkansas Legislative Audit, are amended to read as
8 follows:

9 (c)(1) Beginning on the date of publication of the consolidation list
10 under § 6-13-1602 each year, the ~~Department of Education~~ Division of
11 Elementary and Secondary Education shall have authority to oversee all fiscal
12 and accounting-related matters of all school districts on the consolidation
13 list and shall require those school districts to have accurate records
14 necessary to close all books within sixty (60) days after the end of the
15 fiscal year.

16 (2) No contract or other debt obligation incurred by a school
17 district for which the ~~department~~ Division of Elementary and Secondary
18 Education has oversight authority under this section shall be valid or
19 enforceable against a resulting school district unless the contract or other
20 debt obligation is preapproved in writing by the Commissioner of Elementary
21 and Secondary Education or his or her designee.

22 (d) Any school that is involved in an administrative consolidation or
23 administrative annexation shall have an audit started within thirty (30) days
24 of the completion of the closing of the books by the school district.

25 (e) The ~~department~~ Division of Elementary and Secondary Education and
26 Arkansas Legislative Audit shall jointly develop the scope and details of the
27 comprehensive fiscal review consistent with the requirements of this section.

28 (f) A school district may not incur debt without the prior written
29 approval of the ~~department~~ Division of Elementary and Secondary Education if
30 the school district is identified by the ~~department~~ Division of Elementary
31 and Secondary Education under § 6-13-1602(1) as having fewer than three
32 hundred fifty (350) students according to the school district average daily
33 membership in the school year immediately preceding the current school year.
34

35 SECTION 1178. Arkansas Code § 6-13-1610(a)(5), concerning the
36 definition of "improper expenditure exceptions" under the laws establishing

1 financial relief for debts acquired as a result of involuntary
2 consolidations, is amended to read as follows:

3 (5) "Improper expenditure exceptions" means an erroneous
4 expenditure of federal or state funds that is noted as an audit exception and
5 has been determined by the ~~Department of Education~~ Division of Elementary and
6 Secondary Education to require an expenditure of funds by the resulting
7 district to be correct.

8

9 SECTION 1179. Arkansas Code § 6-13-1610(b), concerning financial
10 relief for debts acquired as a result of involuntary consolidations, is
11 amended to read as follows:

12 (b) If on July 1, 2004, or thereafter, the State Board of Education
13 required an involuntary administrative consolidation under § 6-13-1603(a)(3)
14 and the resulting district assumed excess accounts payable or improper
15 expenditure exceptions incurred by the Act 60 school district before the July
16 1 administrative consolidation date that would have caused deficit spending
17 if paid from the funds of the Act 60 school district, the ~~department~~ Division
18 of Elementary and Secondary Education shall provide supplemental funding to
19 the resulting district.

20

21 SECTION 1180. Arkansas Code § 6-13-1610(c)(2)(A), concerning financial
22 relief for debts acquired as a result of involuntary consolidations, is
23 amended to read as follows:

24 (2)(A) The amount of accounts payable, excess accounts payable,
25 improper expenditure exceptions, and available funding shall be determined by
26 the ~~department~~ Division of Elementary and Secondary Education based on
27 information provided in a final audit and other verifiable fiscal information
28 available to the ~~department~~ division.

29

30 SECTION 1181. Arkansas Code § 6-13-1610(d), concerning financial
31 relief for debts acquired as a result of involuntary consolidations, is
32 amended to read as follows:

33 (d)(1) Beginning on the date of the publication of the consolidation
34 list under § 6-13-1602 each year, the ~~department~~ division shall have
35 authority to oversee all fiscal and accounting-related matters of all school
36 districts on the consolidation list and shall require these school districts

1 to have accurate records necessary to close all books within sixty (60) days
2 of the end of the fiscal year.

3 (2) No contract or other debt obligation incurred by a school
4 district for which the ~~department~~ division has oversight authority under this
5 section shall be valid or enforceable against a resulting district unless the
6 contract or other debt obligation is preapproved in writing by the
7 Commissioner of Elementary and Secondary Education or his or her designee.

8

9 SECTION 1182. The introductory language of Arkansas Code § 6-13-
10 1611(a), concerning reports by administratively consolidated school
11 districts, is amended to read as follows:

12 (a) By October 1 of each year, the resulting district or receiving
13 district of any school district that was administratively consolidated or
14 administratively annexed under §§ 6-13-1601 – 6-13-1603, ~~6-13-1604~~
15 ~~{repealed}~~, and ~~6-13-1605 {repealed}~~ shall file a written report with the
16 House Committee on Education, the Senate Committee on Education, and the
17 ~~Department of Education~~ Division of Elementary and Secondary Education
18 indicating:

19

20 SECTION 1183. The introductory language of Arkansas Code § 6-13-
21 1611(b), concerning reports by administratively consolidated school
22 districts, is amended to read as follows:

23 (b) The ~~department~~ division shall develop or approve a survey to be
24 used by the resulting districts or receiving districts to capture perceptual
25 data from parents and students regarding their opinions on:

26

27 SECTION 1184. The introductory language of Arkansas Code § 6-13-
28 1612(c), concerning academic support centers, is amended to read as follows:

29 (c) The ~~Department of Education~~ Division of Elementary and Secondary
30 Education shall:

31

32 SECTION 1185. Arkansas Code § 6-13-1613(a)(1), concerning minimum
33 school district size waivers, is amended to read as follows:

34 (a)(1) A school district that is placed on the consolidation list
35 published by the ~~Department of Education~~ Division of Elementary and Secondary
36 Education under § 6-13-1602(2) may annually request a waiver from the average

1 daily membership requirement of three hundred fifty (350) students from the
2 State Board of Education.

3
4 SECTION 1186. Arkansas Code § 6-14-113(d), concerning election kits
5 for school elections, is amended to read as follows:

6 (d) The cost of the kits or packages prepared by the ~~Department of~~
7 ~~Education~~ Division of Elementary and Secondary Education pursuant to this
8 section shall be paid from the maintenance funds provided for the ~~department~~
9 division by legislative appropriation.

10
11 SECTION 1187. Arkansas Code § 6-15-102 is amended to read as follows:
12 6-15-102. Division of Public School Accountability.

13 (a)(1) To enhance the public's access to public school performance
14 indicators and to better measure the benefits of the increasing public
15 investment in Arkansas's schools, the General Assembly finds that a Division
16 of Public School Accountability ~~of~~ under the ~~Department of Education~~ Division
17 of Elementary and Secondary Education should be established under the direct
18 operational control of the Commissioner of Elementary and Secondary
19 Education.

20 (2) The foremost obligation of the ~~division~~ Division of Public
21 School Accountability shall be to administer all monitoring and compliance
22 activities dealing with academic and fiscal accountability for each school or
23 school district and to report academic progress.

24 (b) There is created the Division of Public School Accountability ~~of~~
25 under the ~~Department of Education~~ Division of Elementary and Secondary
26 Education.

27 (c) The ~~division~~ Division of Public School Accountability shall be
28 under the supervision of the commissioner.

29 (d)(1)(A) The commissioner shall select an individual to serve as the
30 ~~assistant commissioner~~ Assistant Commissioner of the ~~division~~ Division of
31 Public School Accountability, and the ~~assistant commissioner~~ Assistant
32 Commissioner of the Division of Public School Accountability shall serve at
33 the pleasure of the commissioner.

34 (B) The commissioner may reassign as necessary appropriate
35 staff for the ~~division~~ Division of Public School Accountability sufficient to
36 fulfill all obligations for monitoring and reporting in the ~~division~~ Division

1 of Public School Accountability.

2 (2) The person selected as the ~~assistant commissioner~~ Assistant
3 Commissioner of the Division of Public School Accountability shall:

4 (A) Be a person of good moral character and qualified
5 technically and by experience to direct the work of the ~~division~~ Division of
6 Public School Accountability;

7 (B) Hold a master's degree or a higher level degree from
8 an accredited institution; and

9 (C) Have ten (10) years of experience in an
10 administrative, supervisory, or management position.

11 (3) No person who is related within the fourth degree of
12 consanguinity or affinity to any member of the State Board of Education or to
13 the commissioner shall be eligible to serve as the ~~assistant commissioner~~
14 Assistant Commissioner of the Division of Public School Accountability.

15 (e) With guidance and approval from the commissioner, the ~~assistant~~
16 ~~commissioner~~ Assistant Commissioner of the Division of Public School
17 Accountability shall be responsible for hiring all employees of the ~~division~~
18 Division of Public School Accountability.

19 (f) The ~~division~~ Division of Public School Accountability shall have
20 the following responsibilities:

21 (1) To monitor schools for compliance with:

22 (A) State and federal regulations;

23 (B) Legislative acts and court-ordered mandates;

24 (C) All standards of learning and accreditation as
25 established by the state board; and

26 (D) All rules and regulations as established by the state
27 board;

28 (2) To coordinate the analysis, dissemination, and reporting of
29 all state-mandated assessment information;

30 (3) To coordinate the implementation and administration of:

31 (A) Longitudinal tracking and trend data collection as
32 established by the state board for the purposes of improving student and
33 school performance, ensuring mastery of the curriculum, and providing
34 comparisons between students within Arkansas and with students in other
35 states;

36 (B) Value-added assessments as established by the state

1 board; and

2 (C) The annual school performance reports as established
3 by the state board;

4 (4) To administer all monitoring and compliance activities
5 dealing with academic and fiscal accountability as established by the state
6 board; and

7 (5) To work with program approval and licensure sections of the
8 ~~Department of Education~~ Division of Elementary and Secondary Education, the
9 ~~Department~~ Division of Higher Education, the ~~Department~~ Division of Career
10 and Technical Education, and the individual colleges to provide information
11 that will contribute to reasonable, equitable, and excellent preparation of
12 licensed personnel in public and private institutions of higher education.

13 (g)(1) The ~~division~~ Division of Public School Accountability shall
14 provide annual reports of school performance or compliance to the Joint
15 Interim Oversight Committee on Education Reform, the House Committee on
16 Education, and the Senate Committee on Education.

17 (2) A preliminary report shall be provided by January 1 of each
18 year, and a follow-up report that includes information regarding on-site
19 visits shall be filed by June 1 of each year.

20

21 SECTION 1188. Arkansas Code § 6-15-202(a)(1), concerning accreditation
22 and development of regulations and standards by the State Board of Education,
23 is amended to read as follows:

24 (a)(1) The State Board of Education is authorized and directed to
25 develop comprehensive regulations, criteria, and standards to be used by the
26 state board and the ~~Department of Education~~ Division of Elementary and
27 Secondary Education in the accreditation of school programs in elementary and
28 secondary public schools in this state.

29

30 SECTION 1189. Arkansas Code § 6-15-202(b)(2)(B)(iii), concerning
31 accreditation and development of regulations and standards by the State Board
32 of Education, is amended to read as follows:

33 (iii) The ~~department~~ division verifies in writing to
34 the state board that all of the curriculum frameworks for the two (2)
35 separate courses are included in the proposed combined or embedded course;
36 and

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SECTION 1190. Arkansas Code § 6-15-202(e)(1), concerning accreditation and development of regulations and standards by the State Board of Education, is amended to read as follows:

(e)(1) The ~~department~~ division shall conduct a Standards for Accreditation of Arkansas Public Schools and School Districts review for each public school or public school district in the state:

(A) Identified as being at a high risk of failing to meet the standards; or

(B) Whenever the ~~department~~ division or state board deems necessary.

SECTION 1191. The introductory language of Arkansas Code § 6-15-202(f), concerning accreditation and development of regulations and standards by the State Board of Education, is amended to read as follows:

(f) The Commissioner of Elementary and Secondary Education may require that the superintendent of each school district file a written statement with the ~~department~~ division as evidence that the school district for which the superintendent is responsible has complied with any or all of the following statutory requirements:

SECTION 1192. Arkansas Code § 6-15-202(f)(51), concerning accreditation and development of regulations and standards by the State Board of Education, is amended to read as follows:

(51) Any other statutory mandate for school districts identified by the ~~department~~ division as relevant to the Standards for Accreditation of Arkansas Public Schools and School Districts.

SECTION 1193. Arkansas Code § 6-15-202(g) and (h), concerning accreditation and development of regulations and standards by the State Board of Education, are amended to read as follows:

(g) In addition to any written statement of assurance required under subsection (f) of this section, the ~~department~~ division may conduct an on-site review of a school district to confirm that a school district has complied with any statutory requirements listed in subsection (f) of this section or any other matter related to the standards.

1 (h) The ~~department~~ division shall establish a form for the written
2 statement of assurance required under subsection (f) of this section and
3 shall establish a date or dates by which school districts shall submit the
4 written statement of assurance required under subsection (f) of this section.
5

6 SECTION 1194. The introductory language of Arkansas Code § 6-15-
7 202(i), concerning accreditation and development of regulations and standards
8 by the State Board of Education, is amended to read as follows:

9 (i) If any superintendent fails to file a written statement of
10 assurance as required by the commissioner under subsection (f) of this
11 section by the date established by the ~~department~~ division or knowingly
12 submits false information or if the ~~department~~ division determines the
13 information in the statement is inaccurate or incomplete, the ~~department~~
14 division may:
15

16 SECTION 1195. Arkansas Code § 6-15-203(a), concerning notification of
17 school for failure to meet standards for accreditation and appeal, are
18 amended to read as follows:

19 (a)(1) The ~~Department of Education~~ Division of Elementary and
20 Secondary Education annually shall notify all schools or school districts
21 failing to meet standards for accreditation for elementary and secondary
22 schools not later than May 1 of each year of this determination.

23 (2)(A) However, at any time the ~~department~~ division may
24 immediately notify a public school or school district failing to meet
25 standards for accreditation for elementary and secondary schools when the
26 failure is discovered by the ~~department~~ division under § 6-15-202(i).

27 (B) A public school or school district notified by the
28 ~~department~~ division of the public school's or school district's failure to
29 meet the standards for accreditation due to actions taken under § 6-15-202(i)
30 shall have the same period of time to appeal to the State Board of Education
31 as provided under subdivision (b)(3) of this section.
32

33 SECTION 1196. Arkansas Code § 6-15-203(b)(1), concerning notification
34 of school for failure to meet standards for accreditation and appeal, are
35 amended to read as follows:

36 (b)(1) In the event that a school district affected by this subchapter

1 believes the ~~department~~ division has improperly determined that a school or
2 school district fails to meet the standards for accreditation, the school
3 district shall have a right of appeal thereafter to the state board.
4

5 SECTION 1197. Arkansas Code § 6-15-206(a), concerning a school's
6 subsequent failure to meet standards for accreditation, is amended to read as
7 follows:

8 (a) Any school or school district which fails to meet current
9 standards for accreditation as determined by the ~~Department of Education~~
10 Division of Elementary and Secondary Education shall be classified as
11 probationary.
12

13 SECTION 1198. Arkansas Code § 6-15-206(b)(2), concerning a school's
14 subsequent failure to meet standards for accreditation, is amended to read as
15 follows:

16 (2) The ~~department~~ division shall prepare and promulgate
17 regulations and guidelines for the maximum times allowable for correction of
18 any violations of standards, provided no probationary status violation may
19 exist for more than two (2) consecutive school years.
20

21 SECTION 1199. Arkansas Code § 6-15-206(c)(2), concerning a school's
22 subsequent failure to meet standards for accreditation, is amended to read as
23 follows:

24 (2) The ~~department~~ division shall review annually the
25 educational standards of school districts for the purpose of determining
26 whether standards for accreditation of the schools therein are in compliance
27 with current state standards for accreditation.
28

29 SECTION 1200. Arkansas Code § 6-15-206(d)(1), concerning a school's
30 subsequent failure to meet standards for accreditation, is amended to read as
31 follows:

32 (d)(1) The ~~department~~ division shall conduct a review of each school's
33 compliance if the ~~department~~ division has reason to believe that the school
34 district or any school within the public school district has fallen below
35 standards for accreditation.
36

1 SECTION 1201. Arkansas Code § 6-15-206(e), concerning a school's
2 subsequent failure to meet standards for accreditation, is amended to read as
3 follows:

4 (e) The ~~department~~ division shall cooperate with local schools and
5 school authorities in order to assist affected school districts and schools
6 therein to achieve compliance with the standards for accreditation as
7 provided in this subchapter.

8
9 SECTION 1202. Arkansas Code § 6-15-213(3) and (4), concerning courses
10 that should be considered as taught under certain circumstances, are amended
11 to read as follows:

12 (3) The school district provides written proof, as required by
13 the ~~Department of Education~~ Division of Elementary and Secondary Education,
14 that the school district had the course scheduled to be taught on the school
15 district's master course schedule during the entire time the course was
16 required to be taught;

17 (4) The school district provides written proof, as required by
18 the ~~department~~ Division of Elementary and Secondary Education, that the
19 school district had a properly licensed teacher employed and able to teach
20 the required course during the entire time the course was required to be
21 taught on site at the school district, by independent study, or has access to
22 the course via distance education approved by the ~~department~~ Division of
23 Elementary and Secondary Education, and the course was listed on the school
24 district's master course schedule; and

25
26 SECTION 1203. Arkansas Code § 6-15-214(b)(1), concerning advanced
27 placement courses counted as core curriculum courses, is amended to read as
28 follows:

29 (b)(1) The ~~Department of Education~~ Division of Elementary and
30 Secondary Education acknowledges that the rigor and level of difficulty of
31 advanced placement courses exceed the requirements of regular courses.

32
33 SECTION 1204. Arkansas Code § 6-15-214(d), concerning advanced
34 placement courses counted as core curriculum courses, is amended to read as
35 follows:

36 (d)(1) The public school district shall notify the ~~department~~ division

1 after registration in the spring before the beginning of the new school year
2 and immediately after the school year begins if no students enrolled in the
3 required course and the public school district will seek to meet the
4 standards for accreditation using the advanced placement course.

5 (2) Upon receiving the public school district notification and
6 after spring registration, the ~~department~~ division shall permit the public
7 school district to meet the standards for accreditation by teaching the
8 advanced placement course in place of the required course.

9

10 SECTION 1205. Arkansas Code § 6-15-214(f), concerning advanced
11 placement courses counted as core curriculum courses, is amended to read as
12 follows:

13 (f) The ~~department~~ division shall establish procedures to ensure that
14 no student is coerced into taking an advanced placement course for the
15 purpose of meeting the standards for accreditation.

16

17 SECTION 1206. Arkansas Code § 6-15-215(b)(2), concerning the
18 definition of "Smart Core" under the Arkansas Smart Core Incentive Funding
19 Program, is amended to read as follows:

20 (2) "Smart Core" means the curriculum established by the
21 ~~Department of Education~~ Division of Elementary and Secondary Education under
22 the Standards for Accreditation of Arkansas Public Schools and School
23 Districts that is part of Smart Future, a state initiative focused on
24 improving Arkansas public high schools for all students; and

25

26 SECTION 1207. Arkansas Code § 6-15-215(e), concerning the Arkansas
27 Smart Core Incentive Funding Program, is amended to read as follows:

28 (e)(1) Subject to an appropriation and available funding for the
29 program, the ~~department~~ division shall pay incentive funding to a school
30 district under this section based on an annual percentage of Smart Core
31 graduates from a public high school in the school district.

32 (2)(A) The ~~department~~ division shall make the calculation based
33 on a student record analysis conducted annually by the ~~department~~ division
34 beginning with the graduating class of 2010.

35 (B) The ~~department~~ division shall exclude from the student
36 record analysis a student with an individualized education program that does

1 not require a student to complete the Smart Core curriculum.

2

3 SECTION 1208. The introductory language of Arkansas Code § 6-15-
4 215(f)(1), concerning the Arkansas Smart Core Incentive Funding Program, is
5 amended to read as follows:

6 (f)(1) By June 30 of each year, the ~~department~~ division shall pay to a
7 school district incentive funding under the program as follows:

8

9 SECTION 1209. Arkansas Code § 6-15-215(f)(2), concerning the Arkansas
10 Smart Core Incentive Funding Program, is amended to read as follows:

11 (2) The ~~department~~ division shall not pay incentive funding to a
12 school district for a public high school in which less than ninety percent
13 (90%) of its graduates complete the Smart Core curriculum.

14

15 SECTION 1210. Arkansas Code § 6-15-216(a)(1), concerning flexibility
16 in awarding course credit, is amended to read as follows:

17 (a)(1) Beginning in the 2018-2019 school year, a public school
18 district may submit a plan for approval to the ~~Department of Education~~
19 Division of Elementary and Secondary Education to award units of high school
20 course credit based on a demonstration of subject matter competency instead
21 of, or in combination with, completing hours of classroom instruction.

22

23 SECTION 1211. Arkansas Code § 6-15-216(c), concerning flexibility in
24 awarding course credit, is amended to read as follows:

25 (c) The ~~department~~ division may promulgate rules to implement this
26 section, including without limitation guidelines to assist public school
27 districts in transitioning to awarding credits as provided under this
28 section.

29

30 SECTION 1212. Arkansas Code § 6-15-503(c), concerning prerequisites to
31 home schooling, is amended to read as follows:

32 (c) Each local school district shall report the statistical data
33 required by this section to the ~~Department of Education~~ Division of
34 Elementary and Secondary Education each year.

35

36 SECTION 1213. Arkansas Code § 6-15-503(e), concerning prerequisites to

1 home schooling, is amended to read as follows:

2 (e) The ~~department~~ division and the student's local school district
3 shall not create additional criteria or require additional information for a
4 student to attend a home school beyond that provided in this section.

5

6 SECTION 1214. Arkansas Code § 6-15-902(c)(3)(B)(i), concerning grading
7 scales, exemptions, and special education classes, is amended to read as
8 follows:

9 (B)(i) If a local school district board of directors
10 adopts a policy as set forth in subdivision (c)(3)(A) of this section, the
11 school district must apply to the ~~Department of Education~~ Division of
12 Elementary and Secondary Education through the Assistant Commissioner for the
13 Division of Public School Accountability for approval of courses to be
14 designated "concurrent enrollment college courses".

15

16 SECTION 1215. Arkansas Code § 6-15-1003(c)(2), concerning academically
17 competent students, is amended to read as follows:

18 (2) School districts, schools, and students shall participate in
19 the state assessments in the basic core of knowledge and skills as defined by
20 the ~~Department of Education~~ Division of Elementary and Secondary Education in
21 the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.

22

23 SECTION 1216. Arkansas Code § 6-15-1004(a)(2), concerning qualified
24 teachers in every public school room, is amended to read as follows:

25 (2) If there is no assessment available under subdivision (a)(1)
26 of this section for a new licensure area for subject matter content, the
27 ~~Department of Education~~ Division of Elementary and Secondary Education may
28 request that the state board approve an alternative method of demonstrating
29 subject matter content competency.

30

31 SECTION 1217. Arkansas Code § 6-15-1004(c)(2)(A)(ii) and (iii),
32 concerning qualified teachers in every public school room, are amended to
33 read as follows:

34 (ii) Part of the requirements for the teacher to
35 obtain additional licensure in a subject matter that has been designated by
36 the ~~Department of Education~~ Division of Elementary and Secondary Education as

1 having a critical shortage of teachers; or

2 (iii) Otherwise approved by the ~~department~~ Division
3 of Elementary and Secondary Education under subdivision (c)(2)(B) of this
4 section as a graduate-level course eligible for professional development
5 credit.

6
7 SECTION 1218. Arkansas Code § 6-15-1004(d)(3), concerning qualified
8 teachers in every public school room, is amended to read as follows:

9 (3) A technical permit issued in cooperation with the ~~Department~~
10 Division of Career and Technical Education;

11
12 SECTION 1219. Arkansas Code § 6-15-1005(g)(4)(B), concerning safe,
13 equitable, and accountable public schools, is amended to read as follows:

14 (B) Schools reaching predetermined high levels of
15 achievement will be granted charter status with approval of the charter
16 petition by the ~~Department of Education~~ Division of Elementary and Secondary
17 Education.

18
19 SECTION 1220. Arkansas Code § 6-15-1006 is amended to read as follows:
20 6-15-1006. Assistance and support.

21 (a)(1) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education will be structured to provide leadership, service, and
23 support to public schools.

24 (2) ~~Department~~ Division professional staff will demonstrate
25 mastery of knowledge in learning theory, best educational practices, resource
26 utilization, research and data analysis, school law, instructional
27 leadership, and school administration.

28 (b)(1) ~~Department~~ Division staff will conduct, sponsor, participate
29 in, and support continuing education and professional development.

30 (2) The continuing education and professional development will
31 be based on overall organizational improvement, performance evaluation
32 results, statewide student achievement results, and current educational
33 research and practice.

34 (c)(1) The ~~department~~ division will provide leadership in marshalling
35 support for a quality and equitable educational system in the state.

36 (2) ~~Department~~ Division resources will be committed to

1 supporting policy development and procedures that enable the Governor, the
2 General Assembly, the State Board of Education, and business and professional
3 organizations to work together in a positive and consistent manner to improve
4 education in Arkansas.

5
6 SECTION 1221. Arkansas Code § 6-15-1101(a), concerning legislative
7 findings regarding attaching seals to high school transcripts and diplomas,
8 is amended to read as follows:

9 (a) The General Assembly hereby recognizes and acknowledges that in
10 recent years a high school diploma has lost credibility as a warranty that
11 the recipient has the basic knowledge and skills necessary for either an
12 entry-level job or for postsecondary education. The General Assembly further
13 recognizes that the State Board of Education, the ~~Department of Education~~
14 Division of Elementary and Secondary Education, and local school districts
15 have worked diligently to establish and implement a core curriculum in
16 Arkansas secondary schools. Students who complete the core curriculum with a
17 satisfactory grade point average should receive recognition for both
18 perseverance and a job well done. It is the purpose of this legislation to
19 both further that recognition and to increase the confidence of Arkansans in
20 the value of diplomas awarded by the state's public schools.

21
22 SECTION 1222. Arkansas Code § 6-15-1301(a), concerning the creation,
23 composition, powers and duties of the Department of Education, is amended to
24 read as follows:

25 (a) The ~~Department of Education~~ Division of Elementary and Secondary
26 Education is directed to create a Safe Schools Committee.

27
28 SECTION 1223. Arkansas Code § 6-15-1301(b)(1)(D), concerning the
29 creation, composition, powers and duties of the Department of Education, is
30 amended to read as follows:

31 (D) A staff member of the ~~department~~ division appointed by
32 the Commissioner of Elementary and Secondary Education;

33
34 SECTION 1224. Arkansas Code § 6-15-1402(a), concerning the purpose,
35 report, confidentiality, and rules of public schools, is amended to read as
36 follows:

1 (a)(1) In order to generally improve public school accountability, to
2 provide benchmarks for measuring individual school improvement, and to
3 empower parents and guardians of children enrolled in Arkansas public schools
4 by providing them with the information to judge the quality of their schools,
5 the ~~Department of Education~~ Division of Elementary and Secondary Education
6 shall annually prepare and publish a school performance report for each
7 individual public school in the state, including the Arkansas School for the
8 Deaf, the Arkansas School for the Blind, and the Arkansas School for
9 Mathematics, Sciences, and the Arts, and shall distribute the report to the
10 House Committee on Education and the Senate Committee on Education no later
11 than April 15 each year.

12 (2) The school performance report for each school shall be made
13 available to every parent or guardian of a child in kindergarten through
14 grade twelve (K-12) in the public schools of Arkansas by posting the school
15 performance report for each school on the website of the ~~department~~ division
16 and the website of the school district in which the public schools addressed
17 in the school performance report are located no later than April 15 each
18 year.

19
20 SECTION 1225. Arkansas Code § 6-15-1402(b)(1)(A), concerning the
21 purpose, report, confidentiality, and rules of public schools, is amended to
22 read as follows:

23 (b)(1)(A) The school performance report shall be based on reliable
24 statistical information uniformly required to be collected and submitted by
25 each local school district to the ~~department~~ division and shall be published
26 in a format that can be easily understood by parents or guardians who are not
27 professional educators.

28
29 SECTION 1226. Arkansas Code § 6-15-1402(b)(1)(C), concerning the
30 purpose, report, confidentiality, and rules of public schools, is amended to
31 read as follows:

32 (C) The ~~department~~ division may contract with individuals
33 or businesses knowledgeable in the areas of graphic and computer design to
34 ensure that the school performance reports required by this subchapter are
35 published in a format that encourages their utilization by the citizens of
36 the state.

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SECTION 1227. The introductory language of Arkansas Code § 6-15-1402(d), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

(d) The ~~department~~ division is encouraged to:

SECTION 1228. Arkansas Code § 6-15-1402(d)(1), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

(1) Include explanatory material regarding efforts to improve the state's public schools on the website of the ~~department~~ division with school performance reports; and

SECTION 1229. Arkansas Code § 6-15-1402(f)(1), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

(f)(1) The ~~department~~ division shall not disclose parent or guardian names, addresses, or other identifying information under any circumstances.

SECTION 1230. Arkansas Code § 6-15-1402(h), concerning the purpose, report, confidentiality, and rules of public schools, is amended to read as follows:

(h) The ~~department~~ division may promulgate rules necessary to carry out the purposes of this subchapter.

SECTION 1231. Arkansas Code § 6-15-1504(a), concerning review of the Arkansas Academic Content Standards and Curriculum Framework by the Department of Education, is amended to read as follows:

(a) The ~~Department of Education~~ Division of Elementary and Secondary Education shall review the Arkansas Academic Content Standards and Curriculum Framework process plan on its State Board of Education-approved revision cycle and report to the State Board of Education annually.

SECTION 1232. Arkansas Code § 6-15-1505(b)-(d), concerning school district implementation, is amended to read as follows:

(b) The superintendent of each school district shall provide to the

1 ~~Department of Education~~ Division of Elementary and Secondary Education, by
2 October 1 of each year following the adoption of the plan under subsection
3 (a) of this section, a written statement of assurance that the content of
4 each class and subject area, as required by the Standards for Accreditation
5 of Arkansas Public Schools and School Districts regardless of levels, is
6 aligned to content standards and curriculum frameworks developed by the state
7 board in the plan.

8 (c) The ~~department~~ division shall monitor, during the standards review
9 visit, documentation related to the plan.

10 (d) If the ~~department~~ division determines that a school district has
11 failed to align the content of each class and subject area as required by the
12 state board to content standards and curriculum frameworks developed by the
13 state board, the ~~department~~ division shall:

14 (1) Note the failure to comply in the annual school performance
15 report under § 6-15-1402; and

16 (2) Cite the failure to comply of each school on the Standards
17 for Accreditation of Arkansas Public Schools and School Districts Annual
18 Report.

19
20 SECTION 1233. Arkansas Code § 6-15-1601(g)(2)-(4), concerning the
21 establishment and members of the Commission on Closing the Achievement Gap in
22 Arkansas, are amended to read as follows:

23 (2) Monitor the ~~Department of Education's~~ Division of Elementary
24 and Secondary Education's efforts to comply with federal guidelines on
25 improving the academic achievement of the disadvantaged, specifically
26 including without limitation the Elementary and Secondary Education Act of
27 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act,
28 Pub. L. No. 114-95;

29 (3)(A) Monitor the ~~department's~~ division's identification of
30 population groups to be motivated in closing the achievement gap efforts.

31 (B) The commission may expand the role and scope of the
32 commission to cover specific population groups as identified by the
33 ~~department~~ division as target groups for closing the achievement gaps;

34 (4) Receive national school lunch data and reports biennially
35 from the ~~department~~ division;

36

1 SECTION 1234. Arkansas Code § 6-15-1601(g)(6)(C), concerning the
2 establishment and members of the Commission on Closing the Achievement Gap in
3 Arkansas, is amended to read as follows:

4 (C) A review of policies and programs approved by the
5 ~~department~~ division for national school lunch expenditures on closing the
6 achievement gap;

7
8 SECTION 1235. Arkansas Code § 6-15-1601(g)(6)(H), concerning the
9 establishment and members of the Commission on Closing the Achievement Gap in
10 Arkansas, is amended to read as follows:

11 (H) Suggested policy changes to improve the achievement
12 gap at the legislative, ~~department~~ division, school district, and other
13 levels; and

14
15 SECTION 1236. The introductory language of Arkansas Code § 6-15-
16 1601(h), concerning the establishment and members of the Commission on
17 Closing the Achievement Gap in Arkansas, is amended to read as follows:

18 (h) At the discretion of the Commissioner of Elementary and Secondary
19 Education, the state shall provide resources necessary for the following:

20
21 SECTION 1237. Arkansas Code § 6-15-1601(k)(1), concerning the
22 establishment and members of the Commission on Closing the Achievement Gap in
23 Arkansas, is amended to read as follows:

24 (k)(1) The ~~department~~ division shall provide meeting space and
25 clerical support as needed by the commission.

26
27 SECTION 1238. Arkansas Code § 6-15-1702(b)(5)(B)(ii)(b), concerning a
28 parental involvement plan, is amended to read as follows:

29 (b) The use of and access to ~~Department of~~
30 Education Division of Elementary and Secondary Education website tools for
31 parents;

32
33 SECTION 1239. Arkansas Code § 6-15-1702(b)(5)(B)(ii)(d), concerning a
34 parental involvement plan, is amended to read as follows:

35 (d) Other strategies or curricula developed or
36 acquired by the school district for at-home parental instruction approved by

1 the ~~department~~ division; and

2

3 SECTION 1240. Arkansas Code § 6-15-1704(a)(1), concerning monitoring
4 and annual review of parental involvement plans, is amended to read as
5 follows:

6 (1) File a copy of the plan with the ~~Department of Education~~
7 Division of Elementary and Secondary Education;

8

9 SECTION 1241. The introductory language of Arkansas Code § 6-15-
10 1704(b)(1)(A), concerning monitoring and annual review of parental
11 involvement plans, is amended to read as follows:

12 (b)(1)(A) The ~~department~~ division shall:

13

14 SECTION 1242. The introductory language of Arkansas Code § 6-15-
15 1704(b)(1)(B), concerning monitoring and annual review of parental
16 involvement plans, is amended to read as follows:

17 (B) Periodically on a rotating schedule, the ~~department~~
18 division shall monitor each school district's plan to:

19

20 SECTION 1243. The introductory language of Arkansas Code § 6-15-
21 1704(b)(1)(C), concerning monitoring and annual review of parental
22 involvement plans, is amended to read as follows:

23 (C) The ~~department~~ division shall place priority for
24 monitoring under subdivision (b)(1)(B) of this section on school districts
25 that have been identified as being in:

26

27 SECTION 1244. The introductory language of Arkansas Code § 6-15-
28 1704(b)(2), concerning monitoring and annual review of parental involvement
29 plans, is amended to read as follows:

30 (2) By January 1 of each year, the ~~department~~ division shall
31 provide any recommendations in writing to a school district:

32

33 SECTION 1245. Arkansas Code § 6-15-1704(b)(3), concerning monitoring
34 and annual review of parental involvement plans, is amended to read as
35 follows:

36 (3) The ~~department~~ division shall allow the school district an

1 opportunity to implement the ~~department's~~ division's recommendations.

2
3 SECTION 1246. The introductory language of Arkansas Code § 6-15-1705,
4 concerning the incorporation of parental involvement into teacher education
5 programs, is amended to read as follows:

6 The ~~Department of Education~~ Division of Elementary and Secondary
7 Education and the ~~Department~~ Division of Higher Education shall collaborate
8 with institutions of higher education to incorporate into teacher and
9 administrator education programs instruction regarding:

10
11 SECTION 1247. Arkansas Code § 6-15-1901(c), concerning the
12 establishment of a Delta Student Academic Success Plan, is amended to read as
13 follows:

14 (c) The Chancellor of the University of Arkansas at Pine Bluff may
15 enter into an agreement with the superintendents of the school districts
16 within Arkansas, Chicot, Drew, Jefferson, and Lincoln counties to implement
17 the plan to the extent that the plan does not conflict with Arkansas law or
18 with the standards set forth by the ~~Department of Education~~ Division of
19 Elementary and Secondary Education.

20
21 SECTION 1248. Arkansas Code § 6-15-2006(a)(1)(C)(ii), concerning an
22 annual report by school districts, is amended to read as follows:

23 (ii) The ~~Department of Education~~ Division of
24 Elementary and Secondary Education may promulgate rules to implement this
25 section.

26
27 SECTION 1249. Arkansas Code § 6-15-2008\ is amended to read as
28 follows:

29 6-15-2008. Technical assistance.

30 (a) The ~~Department of Education~~ Division of Elementary and Secondary
31 Education shall provide technical assistance as needed to aid school
32 districts in administering this subchapter.

33 (b)(1) At least semiannually, the ~~department~~ division shall provide a
34 report to the House Committee on Education and the Senate Committee on
35 Education setting forth the school districts requesting assistance, the date
36 of the requests, and the dates and actions taken.

1 (2) The ~~department~~ division shall further report the results of
2 the action taken or assistance provided.

3
4 SECTION 1250. Arkansas Code § 6-15-2101(a)(1) and (2), concerning
5 school rating systems and annual reports, are amended to read as follows:

6 (a)(1) The ~~Department of Education~~ Division of Elementary and
7 Secondary Education shall prepare annual reports of the results of the
8 statewide assessment program that describe student achievement in each school
9 district and each school in the state and the school performance category
10 levels under § 6-15-2103.

11 (2) The ~~department~~ division shall prescribe the design and
12 content of these reports that shall include without limitation descriptions
13 of achievement of all schools participating in any assessment program and all
14 of their major student populations as determined by the ~~department~~ division,
15 provided that the provisions of § 6-15-2909 pertaining to student records
16 apply to this section.

17
18 SECTION 1251. Arkansas Code § 6-15-2101(b)(1), concerning school
19 rating systems and annual reports, is amended to read as follows:

20 (b)(1) The ~~department~~ division shall provide information regarding
21 performance of students and educational programs as required under §§ 6-15-
22 2907 and 6-15-2301 and implement a system of school reports as required by
23 statute and State Board of Education rule.

24
25 SECTION 1252. Arkansas Code § 6-15-2104 is amended to read as follows:
26 6-15-2104. Mobility.

27 The ~~Department of Education~~ Division of Elementary and Secondary
28 Education shall study the effects of mobility on the performance of highly
29 mobile students and recommend programs to improve the performance of such
30 students.

31
32 SECTION 1253. Arkansas Code § 6-15-2105(b)(1), concerning school
33 rating systems, school ratings and performance category level measurement,
34 and publication, is amended to read as follows:

35 (b)(1) Each school's designation or rating shall be published annually
36 by the ~~Department of Education~~ Division of Elementary and Secondary Education

1 and by the school district and shall be available on the ~~department's~~
2 division's website.

3
4 SECTION 1254. Arkansas Code § 6-15-2105(b)(3)(A), concerning school
5 rating systems, school ratings and performance category level measurement,
6 and publication, is amended to read as follows:

7 (A) "A" for schools that are rated "exemplary" by the
8 ~~department~~ Division of Elementary and Secondary Education, Level 5 under § 6-
9 15-2102 [repealed], or Level 5 under § 6-15-2103;

10
11 SECTION 1255. Arkansas Code § 6-15-2107(c)(2), concerning the Arkansas
12 School Recognition Program, is amended to read as follows:

13 (2) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education may disburse available performance-based funding
15 appropriated by the General Assembly on a pro rata basis.

16
17 SECTION 1256. Arkansas Code § 6-15-2108(d), concerning school rating
18 systems, is amended to read as follows:

19 (d) The ~~Department of Education~~ Division of Elementary and Secondary
20 Education shall promulgate rules to implement this section.

21
22 SECTION 1257. The introductory language of Arkansas Code § 6-15-
23 2202(c), concerning access to public school information on school improvement
24 plans, is amended to read as follows:

25 (c) Not less than annually, the ~~Department of Education~~ Division of
26 Elementary and Secondary Education shall monitor compliance with the
27 requirements of this section when the ~~department~~ division:

28
29 SECTION 1258. Arkansas Code § 6-15-2202(d)(1), concerning access to
30 public school information on school improvement plans, is amended to read as
31 follows:

32 (d)(1) The ~~department~~ division shall report a failure to comply with
33 this section to the State Board of Education.

34
35 SECTION 1259. Arkansas Code § 6-15-2301(a)(2), concerning best
36 financial management practices for school districts, standards, reviews, and

1 designation of school districts, is amended to read as follows:

2 (2)(A) The ~~Department of Education~~ Division of Elementary and
3 Secondary Education and the Arkansas Legislative Audit are directed to
4 develop a system for reviewing the financial management practices of school
5 districts.

6 (B) In this system, the Arkansas Legislative Audit shall
7 assist the ~~department~~ Division of Elementary and Secondary Education in
8 examining school district operations to determine whether they meet "best
9 financial management code practices".

10
11 SECTION 1260. Arkansas Code § 6-15-2301(b)(1) and (2), concerning best
12 financial management practices for school districts, standards, reviews, and
13 designation of school districts, are amended to read as follows:

14 (b)(1) The best financial management practices adopted by the State
15 Board of Education may be updated periodically after consultation with the
16 Legislative Council, the Governor, the ~~department~~ Division of Elementary and
17 Secondary Education, school districts, and the Arkansas Legislative Audit.

18 (2) The ~~department~~ Division of Elementary and Secondary
19 Education shall submit to the state board for review and possible adoption
20 proposed revisions to the best financial management practices adopted by the
21 state board and reviewed by the Legislative Council.

22
23 SECTION 1261. Arkansas Code § 6-15-2301(c)(1), concerning best
24 financial management practices for school districts, standards, reviews, and
25 designation of school districts, is amended to read as follows:

26 (c)(1) The ~~department~~ Division of Elementary and Secondary Education
27 shall conduct the reviews or contract with a private firm selected through a
28 formal request-for-proposal process to perform the review.

29
30 SECTION 1262. Arkansas Code § 6-15-2301(d), concerning best financial
31 management practices for school districts, standards, reviews, and
32 designation of school districts, is amended to read as follows:

33 (d) The state board shall consult with the ~~department~~ Division of
34 Elementary and Secondary Education throughout the best practices review
35 process to ensure that the technical expertise of the ~~department~~ Division of
36 Elementary and Secondary Education benefits the review process and supports

1 the school districts before, during, and after the review.

2
3 SECTION 1263. Arkansas Code § 6-15-2301(e)(3)(A), concerning best
4 financial management practices for school districts, standards, reviews, and
5 designation of school districts, is amended to read as follows:

6 (3)(A) The ~~department~~ Division of Elementary and Secondary
7 Education shall prepare annual reports of the results of the best financial
8 management practices reviews and shall post to its website the school and the
9 school district financial grades.

10
11 SECTION 1264. Arkansas Code § 6-15-2301(g), concerning best financial
12 management practices for school districts, standards, reviews, and
13 designation of school districts, is amended to read as follows:

14 (g) Subject to funding by the General Assembly, the ~~department~~
15 Division of Elementary and Secondary Education may contract with a private
16 firm to conduct best financial management practices reviews.

17
18 SECTION 1265. Arkansas Code § 6-15-2301(h), concerning best financial
19 management practices for school districts, standards, reviews, and
20 designation of school districts, is amended to read as follows:

21 (h)(1) Reviews shall be conducted by Arkansas Legislative Audit, the
22 ~~department~~ Division of Elementary and Secondary Education, or the consultant.

23 (2)(A) Funds may be used for the cost of reviews by Arkansas
24 Legislative Audit and private consultants contracted by the state board.

25 (B) Costs may include professional services, travel
26 expenses of the ~~department~~ Division of Elementary and Secondary Education and
27 of the staff of Arkansas Legislative Audit, and any other necessary expenses
28 incurred as part of a best financial management practices review and as
29 preapproved by the ~~department~~ Division of Elementary and Secondary Education.

30
31
32 SECTION 1266. Arkansas Code § 6-15-2301(i)(1), concerning best
33 financial management practices for school districts, standards, reviews, and
34 designation of school districts, is amended to read as follows:

35 (i)(1) A school district shall complete a self-assessment instrument
36 provided by the ~~department~~ Division of Elementary and Secondary Education

1 that indicates the school district's evaluation of its performance on each
2 best practice.

3
4 SECTION 1267. Arkansas Code § 6-15-2301(i)(2)(B), concerning best
5 financial management practices for school districts, standards, reviews, and
6 designation of school districts, is amended to read as follows:

7 (B) The completed self-assessment instrument and
8 supporting documentation shall be submitted to the ~~department~~ Division of
9 Elementary and Secondary Education no later than the date of commencement of
10 the review as notified by the ~~department~~ Division of Elementary and Secondary
11 Education.

12
13 SECTION 1268. Arkansas Code § 6-15-2301(j), concerning best financial
14 management practices for school districts, standards, reviews, and
15 designation of school districts, is amended to read as follows:

16 (j) During the review, the ~~department~~ Division of Elementary and
17 Secondary Education or the consultant conducting the review, if any, shall
18 hold at least one (1) advertised public forum as part of the review in order
19 to explain the best financial management practices review process and obtain
20 input from students, parents or guardians, the business community, and other
21 school district residents regarding their concerns about the operations and
22 management of the school district.

23
24 SECTION 1269. Arkansas Code § 6-15-2301(k)(2)(A), concerning best
25 financial management practices for school districts, standards, reviews, and
26 designation of school districts, is amended to read as follows:

27 (2)(A) The ~~department~~ Division of Elementary and Secondary
28 Education shall issue a final report to the Legislative Council regarding the
29 school district's use of the best financial management practices and cost
30 savings recommendations within sixty (60) days after completing the reviews.

31
32 SECTION 1270. Arkansas Code § 6-15-2301(l)(2), concerning best
33 financial management practices for school districts, standards, reviews, and
34 designation of school districts, is amended to read as follows:

35 (2)(A) Within sixty (60) days after the receipt of the final
36 report, the school district board of directors shall notify the state board

1 and the ~~department~~ Division of Elementary and Secondary Education in writing
2 of the implementation schedule for the action plan.

3 (B) The ~~department~~ Division of Elementary and Secondary
4 Education shall contact the school district, assess the situation, and offer
5 technical assistance, if needed.

6
7 SECTION 1271. Arkansas Code § 6-15-2301(m)(1), concerning best
8 financial management practices for school districts, standards, reviews, and
9 designation of school districts, is amended to read as follows:

10 (1) No later than six (6) months after receipt of the final best
11 financial practices report, the school district board of directors shall
12 submit an initial status report to the Governor, the state board, Arkansas
13 Legislative Audit, the ~~department~~ Division of Elementary and Secondary
14 Education, and the Legislative Council on progress made toward implementing
15 the action plan and whether changes have occurred in other areas of operation
16 that would affect compliance with the best practices; and

17
18 SECTION 1272. Arkansas Code § 6-15-2301(m)(2)(A), concerning best
19 financial management practices for school districts, standards, reviews, and
20 designation of school districts, is amended to read as follows:

21 (2)(A) A second status report shall be submitted by the school
22 district to the Governor, the state board, Arkansas Legislative Audit, the
23 ~~department~~ Division of Elementary and Secondary Education, and the
24 Legislative Council no later than six (6) months after submission of the
25 initial report, and every six (6) months thereafter, until status reports are
26 not required.

27
28 SECTION 1273. Arkansas Code § 6-15-2302(b)(1), concerning general
29 business managers, is amended to read as follows:

30 (b)(1) On and after July 31, 2007, a general business manager for a
31 public school district shall meet the minimum qualifications established by
32 rule of the ~~Department of Education~~ Division of Elementary and Secondary
33 Education.

34
35 SECTION 1274. Arkansas Code § 6-15-2401(a)(1), concerning review of
36 Arkansas Placement Status Reports and reports of students needing

1 remediation, is amended to read as follows:

2 (a)(1) Representatives from the ~~Department~~ Division of Higher
3 Education and the ~~Department of Education~~ Division of Elementary and
4 Secondary Education shall meet with the respective chairs of the Senate
5 Committee on Education and the House Committee on Education or their
6 designees along with the selected superintendents, high school principals,
7 and high school counselors one (1) time every biennium to review the Arkansas
8 Placement Status Reports to determine whether any revisions in the format of
9 the reports, the information that is reported, or the reporting process need
10 to be made.

11

12 SECTION 1275. Arkansas Code § 6-15-2501(c), concerning the creation of
13 the Division of Education Renewal Zones, is amended to read as follows:

14 (b) The ~~division~~ Division of Education Renewal Zones shall be under
15 the supervision of the State Board of Education.

16

17 SECTION 1276. Arkansas Code § 6-15-2501(b)(3), concerning the creation
18 of the Division of Education Renewal Zones, is amended to read as follows:

19 (3) The Director of the ~~Department~~ Division of Higher Education
20 shall assign one (1) individual from the staff of the ~~Department~~ Division of
21 Higher Education to serve as a liaison to the ~~division~~ Division of Education
22 Renewal Zones.

23

24 SECTION 1277. Arkansas Code § 6-15-2501(d) and (e), concerning the
25 creation of the Division of Education Renewal Zones, is amended to read as
26 follows:

27 (d) The ~~division~~ Division of Education Renewal Zones shall be
28 responsible for developing guidelines for the approval of education renewal
29 zone strategic plans and for the evaluation and reporting of education
30 renewal zone activities.

31 (e) The ~~division~~ Division of Education Renewal Zones shall approve any
32 education renewal zone strategic plan prior to the disbursement or annual
33 renewal of funds to participating institutions of higher education.

34

35 SECTION 1278. Arkansas Code § 6-15-2502(d)(1)(C)(ii), concerning the
36 establishment, purpose, and organization of education renewal zones, is

1 amended to read as follows:

2 (ii) The ~~division~~ Division of Education Renewal
3 Zones shall give preference to qualified four-year higher education
4 institutions located within the education service cooperative area.

5
6 SECTION 1279. The introductory language of Arkansas Code § 6-15-
7 2502(d)(1)(D), concerning the establishment, purpose, and organization of
8 education renewal zones, is amended to read as follows:

9 (D) If there is no qualified four-year higher education
10 institution located within the education service cooperative area, the
11 ~~division~~ Division of Education Renewal Zones may select:

12
13 SECTION 1280. Arkansas Code § 6-15-2502(d)(3)(B)(ii)-(iv), concerning
14 the establishment, purpose, and organization of education renewal zones, is
15 amended to read as follows:

16 (ii) A public school designated by the ~~Department of~~
17 ~~Education~~ Division of Elementary and Secondary Education as a school in
18 school improvement or a school in a school district designated by the
19 ~~department~~ Division of Elementary and Secondary Education as being in
20 academic distress shall participate in an education renewal zone if requested
21 to do so by the ~~department~~ Division of Elementary and Secondary Education,
22 and the ~~division~~ Division of Education Renewal Zones working with the
23 ~~department~~ Division of Elementary and Secondary Education shall establish
24 priorities of establishing education renewal zones for those schools, which
25 shall be contingent on the appropriation availability of funding for the
26 renewal zones.

27 (iii) Acceptance or rejection of the application by
28 a school for admittance to an education renewal zone shall be the
29 responsibility of the ~~division~~ Division of Education Renewal Zones, with
30 consultation from the higher education partner.

31 (iv) The ~~division~~ Division of Education Renewal
32 Zones may include within an education renewal zone any school within the
33 education service cooperative area provided that no more than ten (10)
34 schools may participate in any single education renewal zone.

35 (v) The ~~division~~ Division of Education Renewal Zones
36 may designate up to a maximum of three (3) education renewal zones within any

1 single education service cooperative area.

2

3 SECTION 1281. The introductory language of Arkansas Code § 6-15-
4 2502(d)(3)(C), concerning the establishment, purpose, and organization of
5 education renewal zones, is amended to read as follows:

6 (C) In designating education renewal zones and selecting
7 schools for participation in a particular zone, the ~~division~~ Division of
8 Education Renewal Zones shall give priority to schools that meet one (1) or
9 more of the following criteria:

10

11 SECTION 1282. Arkansas Code § 6-15-2502(d)(3)(C)(ii), concerning the
12 establishment, purpose, and organization of education renewal zones, is
13 amended to read as follows:

14 (ii) The school lies within a school district
15 designated by the ~~department~~ Division of Elementary and Secondary Education
16 as in academic distress or financial distress under the Arkansas
17 Comprehensive Testing, Assessment, and Accountability Program;

18

19 SECTION 1283. Arkansas Code § 6-15-2502(d)(4)(C), concerning the
20 establishment, purpose, and organization of education renewal zones, is
21 amended to read as follows:

22 (C) The ~~division~~ Division of Education Renewal Zones may
23 designate up to a maximum of three (3) education renewal zones within any
24 single education service cooperative area.

25

26 SECTION 1284. Arkansas Code § 6-15-2502(d)(5)(B), concerning the
27 establishment, purpose, and organization of education renewal zones, is
28 amended to read as follows:

29 (B) Any two-year community or technical college, technical
30 support organization, or other entity may participate in the education
31 renewal zone at the discretion of the ~~division~~ Division of Education Renewal
32 Zones and in collaboration with a designated higher education partner and a
33 designated education service cooperative.

34

35 SECTION 1285. Arkansas Code § 6-15-2504(d)(2)(B), concerning the
36 development, provisions, and implementation of school improvement plans, is

1 amended to read as follows:

2 (B) Funds received by school districts for the ~~Department~~
3 ~~of Education~~ Division of Elementary and Secondary Education Public School
4 Fund Account for professional development may be used to provide funding for
5 the professional development requirements of the education renewal zone
6 school district partners;

7

8 SECTION 1286. Arkansas Code § 6-15-2606(c)(1)(B), concerning a
9 Rewarding Excellence in Achievement plan, is amended to read as follows:

10 (B) Locally selected and ~~Department of Education~~ Division
11 of Elementary and Secondary Education-approved standardized assessment
12 outcomes for students in each teacher's class may also be included;

13

14 SECTION 1287. Arkansas Code § 6-15-2606(c)(2)(B), concerning a
15 Rewarding Excellence in Achievement plan, is amended to read as follows:

16 (B) Locally selected and ~~Department of Education~~-approved
17 Division of Elementary and Secondary Education-approved standardized
18 assessment outcomes may also be included; and

19

20 SECTION 1288. Arkansas Code § 6-15-2608(a), concerning the evaluation
21 of participants in the Rewarding Excellence in Achievement plan, is amended
22 to read as follows:

23 (a) The ~~Department of Education~~ Division of Elementary and Secondary
24 Education shall commission an annual evaluation of the Rewarding Excellence
25 in Achievement plan of each public school district and public charter school
26 participating in the Rewarding Excellence in Achievement Program.

27

28 SECTION 1289. The introductory language of Arkansas Code § 6-15-
29 2701(c), concerning the closing the achievement gap program, is amended to
30 read as follows:

31 (c) The ~~Department of Education~~ Division of Elementary and Secondary
32 Education shall:

33

34 SECTION 1290. The introductory language of Arkansas Code § 6-15-
35 2701(d), concerning the closing the achievement gap program, is amended to
36 read as follows:

1 (d) The ~~department~~ division shall identify the chronically
2 underperforming schools with the largest achievement gaps among students and
3 give to those chronically underperforming schools the ~~department's~~ division's
4 highest priority for:

5
6 SECTION 1291. Arkansas Code § 6-15-2802(a), concerning rules for a
7 school of innovation, is amended to read as follows:

8 (a) The Commissioner of Elementary and Secondary Education may approve
9 a public school as a school of innovation for the purpose of transforming and
10 improving the teaching and learning under § 6-15-2803.

11
12 SECTION 1292. Arkansas Code § 6-15-2802(c)(9), concerning rules for a
13 school of innovation, is amended to read as follows:

14 (9) Reporting and oversight responsibility of the school of
15 innovation and the ~~Department of Education~~ Division of Elementary and
16 Secondary Education;

17
18 SECTION 1293. Arkansas Code § 6-15-2803(a), concerning school of
19 innovation plans, is amended to read as follows:

20 (a) A school district shall submit its school of innovation plan,
21 approved by the school district board of directors, to the Commissioner of
22 Elementary and Secondary Education for approval to become a school of
23 innovation.

24
25 SECTION 1294. Arkansas Code § 6-15-2804(a)(7)(A), concerning a school
26 of innovation, is amended to read as follows:

27 (7)(A) Provide instructional time that meets or exceeds the
28 instructional time requirement adopted by the state board unless granted an
29 exception by the Commissioner of Elementary and Secondary Education.

30
31 SECTION 1295. Arkansas Code § 6-15-2804(a)(8), concerning a school of
32 innovation, is amended to read as follows:

33 (8) Provide data requested by the ~~Department of Education~~
34 Division of Elementary and Secondary Education to generate reports;

35
36 SECTION 1296. Arkansas Code § 6-15-2904 is amended to read as follows:

1 6-15-2904. Responsibility of ~~Department of Education~~ Division of
2 Elementary and Secondary Education.

3 The ~~Department of Education~~ Division of Elementary and Secondary
4 Education shall develop and implement a comprehensive accountability system
5 for Arkansas public schools and school districts that:

6 (1) Establishes clear academic standards that are periodically
7 reviewed and revised;

8 (2) Maintains a statewide student assessment system that
9 includes a variety of assessment measures;

10 (3) Assesses whether all students have equitable access to
11 excellent educators;

12 (4) Establishes levels of support for public school districts;
13 and

14 (5) Maintains information systems composed of performance
15 indicators that allow the ~~department~~ division to identify levels of public
16 school district support and generate reports for the public.

17
18 SECTION 1297. Arkansas Code § 6-15-2906(a)(1), concerning academic
19 standards established by the Department of Education, is amended to read as
20 follows:

21 (a)(1) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education shall establish academic standards that define what
23 students shall know and be able to demonstrate in each content area.

24
25 SECTION 1298. Arkansas Code § 6-15-2906(b), concerning academic
26 standards established by the Department of Education, is amended to read as
27 follows:

28 (b) The ~~department~~ division shall establish a schedule for periodic
29 review and revision of academic standards to ensure that Arkansas academic
30 standards are rigorous and prepare students for college, career, and
31 community engagement.

32
33 SECTION 1299. The introductory language of Arkansas Code § 6-15-
34 2906(c), concerning academic standards established by the Department of
35 Education, is amended to read as follows:

36 (c) The ~~department~~ division shall include, at a minimum, the following

1 elements in the periodic review and revision of Arkansas academic standards:

2
3 SECTION 1300. The introductory language of Arkansas Code § 6-15-
4 2907(a), concerning the statewide student assessment system, is amended to
5 read as follows:

6 (a) The ~~Department of Education~~ Division of Elementary and Secondary
7 Education shall implement a statewide student assessment system to be
8 administered by Arkansas public schools on a schedule determined by the State
9 Board of Education that includes the following components:

10
11 SECTION 1301. Arkansas Code § 6-15-2907(b), concerning the statewide
12 student assessment system, is amended to read as follows:

13 (b) At the direction of the state board, the ~~department~~ division shall
14 cause assessment instruments to be administered at additional grade levels as
15 necessary to measure educational achievement in the public schools of this
16 state.

17
18 SECTION 1302. The introductory language of Arkansas Code § 6-15-
19 2907(h), concerning the statewide student assessment system, is amended to
20 read as follows:

21 (h) The ~~department~~ division shall provide for statewide student
22 assessments that are:

23
24 SECTION 1303. Arkansas Code § 6-15-2908(a)(1), concerning the analyses
25 of the statewide student assessment data, is amended to read as follows:

26 (a)(1) The ~~Department of Education~~ Division of Elementary and
27 Secondary Education shall provide analyses of data produced by statewide
28 student assessments.

29
30 SECTION 1304. The introductory language of Arkansas Code § 6-15-
31 2908(a)(3), concerning the analyses of the statewide student assessment data,
32 is amended to read as follows:

33 (3) The model used by the ~~department~~ division shall:

34
35 SECTION 1305. Arkansas Code § 6-15-2909(a)(2), concerning the public
36 availability of test instruments and scores, is amended to read as follows:

1 (2) Disseminated or otherwise made available to the public by a
2 member of the State Board of Education, an employee of the ~~Department of~~
3 ~~Education~~ Division of Elementary and Secondary Education, a member of the
4 board of directors of a school district, an employee of a school district, or
5 any other person, except as permitted under the provisions of the Family
6 Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, as it existed
7 on January 1, 2017.

8
9 SECTION 1306. Arkansas Code § 6-15-2910(a), concerning recommended
10 student performance levels by the Department of Education, is amended to read
11 as follows:

12 (a) The ~~Department of Education~~ Division of Elementary and Secondary
13 Education shall recommend student performance levels for the statewide
14 student assessment system to the State Board of Education for its approval.
15

16 SECTION 1307. Arkansas Code § 6-15-2911(a)(1), concerning student-
17 focused learning systems, is amended to read as follows:

18 (a)(1) ~~Beginning with the 2017-2018 school year, the Department of~~
19 ~~Education~~ The Division of Elementary and Secondary Education shall
20 collaborate with public school districts to transition to a student-focused
21 learning system to support success for all students.
22

23 SECTION 1308. Arkansas Code § 6-15-2912(c)(1), concerning educator
24 excellence, is amended to read as follows:

25 (1) Report the data needed by the ~~Department of Education~~
26 Division of Elementary and Secondary Education to identify and evaluate
27 educator effectiveness in accordance with state and federal reporting
28 requirements; and
29

30 SECTION 1309. Arkansas Code § 6-15-2913(a)(1)(A)(i), concerning levels
31 of school district support, is amended to read as follows:

32 (A)(i) The process for determining the differentiated
33 levels of support that the ~~Department of Education~~ Division of Elementary and
34 Secondary Education will provide to school districts.
35

36 SECTION 1310. Arkansas Code § 6-15-2914(d)(1), concerning school-level

1 improvement plans and school district support plans, is amended to read as
2 follows:

3 (d)(1) Annually by September 1, a public school district receiving
4 Level 2 – Collaborative, Level 3 – Coordinated, Level 4 – Directed, or Level
5 5 – Intensive support shall submit to the ~~Department of Education~~ Division of
6 Elementary and Secondary Education a public school district support plan in
7 accordance with rules of the State Board of Education.

8

9 SECTION 1311. Arkansas Code § 6-15-2915(b), concerning school district
10 classification as in need of Level 5 – intensive support and student transfer
11 eligibility, is amended to read as follows:

12 (b) The ~~Department of Education~~ Division of Elementary and Secondary
13 Education shall notify in writing the public school district superintendent
14 and the president of the public school district board of directors of the
15 recommendation to the state board for classification as in need of Level 5 –
16 Intensive support.

17

18 SECTION 1312. Arkansas Code § 6-15-2915(c)(1), concerning school
19 district classification as in need of Level 5 – intensive support and and
20 student transfer eligibility, is amended to read as follows:

21 (c)(1) A public school district recommended for classification as in
22 need of Level 5 – Intensive support may appeal to the state board by filing a
23 written appeal with the Commissioner of Elementary and Secondary Education in
24 accordance with the procedure established in the rules of the state board.

25

26 SECTION 1313. Arkansas Code § 6-15-2916(1), concerning the State Board
27 of Education's authority over a public school district classified as in need
28 of Level 5 – intensive support, is amended to read as follows:

29 (1) Direct the Commissioner of Elementary and Secondary
30 Education to conduct an analysis of all school district systems and make
31 recommendations for action by the state board; and

32

33 SECTION 1314. Arkansas Code § 6-15-2917(c)(1), concerning a public
34 school district under the authority of the State Board of Education, is
35 amended to read as follows:

36 (c)(1) If the public school district has not demonstrated to the state

1 board and the ~~Department of Education~~ Division of Elementary and Secondary
2 Education that the public school district meets the criteria to exit Level 5
3 – Intensive support within five (5) years of the assumption of authority, the
4 state board shall annex, consolidate, or reconstitute the public school
5 district under § 6-13-1401 et seq. and this subchapter.

6
7 SECTION 1315. The introductory language of Arkansas Code § 6-15-
8 2918(a), concerning comprehensive information systems to be established by
9 the Department of Education, is amended to read as follows:

10 (a) The ~~Department of Education~~ Division of Elementary and Secondary
11 Education shall:

12
13 SECTION 1316. Arkansas Code § 6-15-2918(b) and (c), concerning
14 comprehensive information systems to be established by the Department of
15 Education, are amended to read as follows:

16 (b) The ~~department~~ division shall provide electronic resources for
17 educators to support and augment student achievement, efficiency, and
18 educational initiatives.

19 (c) The ~~department~~ division may contract with providers to collect,
20 maintain, and analyze data and prepare reports.

21
22 SECTION 1317. Arkansas Code § 6-16-104(b), concerning the basic
23 language of instruction for public school branches, is amended to read as
24 follows:

25 (b) It shall be the duty of the Commissioner of Elementary and
26 Secondary Education, the Director of the ~~Department~~ Division of Career and
27 Technical Education, and city superintendents to see that the provisions of
28 this section are carried out.

29
30 SECTION 1318. Arkansas Code § 6-16-122(c), concerning American
31 heritage items in classrooms, is amended to read as follows:

32 (c) A copy of this section shall be distributed to the superintendent
33 of each school district in the state by the ~~Department of Education~~ Division
34 of Elementary and Secondary Education, whereupon the superintendents then
35 shall provide a copy to each teacher and each school district board member.

36

1 SECTION 1319. Arkansas Code § 6-16-124(b)(3)(A), concerning the
2 required teaching of Arkansas history as a social studies course, is amended
3 to read as follows:

4 (3)(A) The ~~Department of Education~~ Division of Elementary and
5 Secondary Education shall, in advance of the 2018-2019 school year, develop
6 materials or units relating to Arkansas and the American Civil War.

7
8 SECTION 1320. Arkansas Code § 6-16-126(b)(1)(A), concerning food
9 handling safety and instructional materials, is amended to read as follows:

10 (b)(1)(A) The Commissioner of Elementary and Secondary Education shall
11 provide a clearinghouse for instructional materials on food handling safety.

12
13 SECTION 1321. Arkansas Code § 6-16-126(b)(2), concerning food handling
14 safety and instructional materials, is amended to read as follows:

15 (2) The commissioner shall encourage collaborative efforts
16 between the ~~Department of Education~~ Division of Elementary and Secondary
17 Education and other agencies and organizations in accessing developmentally
18 appropriate instructional materials on food handling safety.

19
20 SECTION 1322. Arkansas Code § 6-16-127(c), concerning the creation of
21 the Arkansas Foreign Language Teacher Training Program, is amended to read as
22 follows:

23 (c) The ~~Department~~ Division of Higher Education, in consultation with
24 the ~~Department of Education~~ Division of Elementary and Secondary Education
25 and representatives of the state's foreign language educators, shall develop
26 a request-for-proposals process whereby Arkansas institutions of higher
27 education with teacher training programs may apply for funding, not to exceed
28 three (3) years, to enhance their foreign language teacher training program.

29
30 SECTION 1323. Arkansas Code § 6-16-127(d)(2)-(4), concerning the
31 creation of the Arkansas Foreign Language Teacher Training Program, are
32 amended to read as follows:

33 (2) All donations, grants, and appropriations received shall be
34 accounted for by the ~~Department~~ Division of Higher Education.

35 (3) The Director of the ~~Department~~ Division of Higher Education
36 may solicit and receive donations and grants for the purpose of making

1 awards.

2 (4) The provisions of this section and § 6-16-128 shall be
3 contingent on the appropriation and funding necessary to allow the ~~Department~~
4 Division of Higher Education to carry out the duties assigned it in this
5 section and § 6-16-128.

6

7 SECTION 1324. Arkansas Code § 6-16-128(b) and (c), concerning the
8 Arkansas Early Grades Foreign Language Pilot Program, are amended to read as
9 follows:

10 (b) The ~~Department of Education~~ Division of Elementary and Secondary
11 Education, in consultation with the ~~Department~~ Division of Higher Education
12 and representatives of the state's foreign language educators, shall develop
13 a request-for-proposals process whereby public schools serving students in
14 kindergarten through grade six (K-6) may apply for funding, not to exceed
15 three (3) years, to establish a foreign language training program, with an
16 emphasis on Spanish.

17 (c)(1) The awards granted under the provisions of this section and §
18 6-16-127 may be funded by donations, grants, or legislative appropriation.

19 (2) The Commissioner of Elementary and Secondary Education may
20 solicit and receive donations and grants for the purpose of making awards.

21 (3) All donations, grants, and appropriations received shall be
22 accounted for by the ~~Department of Education~~ Division of Elementary and
23 Secondary Education.

24 (4) The provisions of this section and § 6-16-127 shall be
25 contingent on the appropriation and funding necessary to allow the ~~Department~~
26 of Education Division of Elementary and Secondary Education to carry out the
27 duties assigned to it in this section and § 6-16-127.

28

29 SECTION 1325. Arkansas Code § 6-16-130(a)(4)(A), concerning the
30 required teaching of visual art or music in elementary school, is amended to
31 read as follows:

32 (4)(A) The ~~Department of Education~~ Division of Elementary and
33 Secondary Education shall provide a stipend of not less than one hundred
34 dollars (\$100) per class to each school for the purchase of necessary
35 supplies or equipment for the classes required by this subsection.

36

1 SECTION 1326. Arkansas Code § 6-16-135(a), concerning personal and
2 family finance standards to be developed by the Department of Education in
3 consultation with the Department of Career Education, is amended to read as
4 follows:

5 (a) The ~~Department of Education~~ Division of Elementary and Secondary
6 Education, in consultation with the ~~Department~~ Division of Career and
7 Technical Education and subject to the approval of the State Board of
8 Education, shall develop personal and family finance standards.

9
10 SECTION 1327. Arkansas Code § 6-16-136(b)(1)(A), concerning the
11 statewide coordination of distance learning, is amended to read as follows:

12 (b)(1)(A) The ~~Department of Education~~ Division of Elementary and
13 Secondary Education shall promulgate the rules necessary for efficient
14 scheduling of courses offered by public schools through distance learning
15 technologies.

16
17 SECTION 1328. Arkansas Code § 6-16-137(a)(1), concerning the
18 definition of "content standards" under the requirements for a physical
19 education credit for physical activity courses, is amended to read as
20 follows:

21 (1) "Content standards" means those curriculum course content
22 standards identified and set out in the ~~Department of Education~~ Division of
23 Elementary and Secondary Education curriculum frameworks;

24
25 SECTION 1329. Arkansas Code § 6-16-137(a)(4), concerning the
26 definition of "statement of assurance" under the requirements for a physical
27 education credit for physical activity courses, is amended to read as
28 follows:

29 (4) "Statement of assurance" means a written statement to be
30 filed by the superintendent or chief academic officer with the ~~department~~
31 Division of Elementary and Secondary Education by October 1 of each school
32 year that ensures that the organized physical activity course is in
33 compliance with the physical education course content standards and
34 curriculum frameworks as required pursuant to § 6-15-1505 and subdivision
35 (b)(2) of this section.

36

1 SECTION 1330. The introductory language of Arkansas Code § 6-16-
2 137(b)(2), concerning the requirements for a physical education credit for
3 physical activity courses, is amended to read as follows:

4 (2) The organized physical activity course is verified by the
5 superintendent of the school district or the chief administrative officer of
6 an open-enrollment charter school who files a written statement of assurance
7 with the ~~department~~ division by October 1 of the school year as required
8 under § 6-15-1505 stating that:

9
10 SECTION 1331. Arkansas Code § 6-16-137(f) and (g), concerning the
11 requirements for a physical education credit for physical activity courses,
12 are amended to read as follows:

13 (f)(1) If it is determined by the ~~department~~ division that any
14 organized physical activity course allowed to be used for physical education
15 credit by a student does not meet the ~~department's~~ division's physical
16 education course content standards and curriculum frameworks, as required
17 under this section, the school district or open-enrollment charter school may
18 be cited or placed in probationary violation of the Standards for
19 Accreditation of Arkansas Public Schools and School Districts under The
20 Quality Education Act of 2003, § 6-15-201 et seq.

21 (2) If it is determined by the ~~department~~ division that a
22 superintendent or chief academic officer or any other licensed personnel have
23 knowingly provided false or misleading information in the statement of
24 assurance required under this section, the state board may take appropriate
25 action on the license of that individual pursuant to § 6-17-410.

26 (g) The ~~department~~ division is authorized to monitor, review
27 documentation, request information, or require additional reports from public
28 schools, school districts, open-enrollment charter schools, or school
29 personnel to enforce compliance with the requirements of this section.

30
31 SECTION 1332. Arkansas Code § 6-16-140(b) and (c), concerning
32 vocational or technical course awards, are amended to read as follows:

33 (b) The ~~Department~~ Division of Career and Technical Education in
34 cooperation with the ~~Department of Education~~ Division of Elementary and
35 Secondary Education shall determine and issue the appropriate award to a
36 student upon successful completion of the vocational or technical career

1 pathway or program of study.

2 (c) The ~~Department~~ Division of Career and Technical Education is
3 authorized to promulgate rules as necessary for the implementation of this
4 section.

5

6 SECTION 1333. Arkansas Code § 6-16-144(b), concerning the Arts-
7 Enriched Curriculum Program, is amended to read as follows:

8 (b) There is established the Arts-Enriched Curriculum Program, a
9 five-year pilot program funded through grants administered by the ~~Department~~
10 ~~of Education~~ Division of Elementary and Secondary Education to implement an
11 arts-enriched curriculum, training, and research at fifteen (15) schools over
12 the five-year period.

13

14 SECTION 1334. Arkansas Code § 6-16-144(f)(2)(B), concerning the Arts-
15 Enriched Curriculum Program, is amended to read as follows:

16 (B) ~~Department of Education~~ Division of Elementary
17 and Secondary Education.

18

19 SECTION 1335. Arkansas Code § 6-16-203 is amended to read as follows:
20 6-16-203. Readiness testing.

21 (a) The ~~Department of Education~~ Division of Elementary and Secondary
22 Education shall develop guidelines for school districts to perform readiness
23 testing for children who are entering kindergarten.

24 (b)(1) After the ~~department~~ division develops guidelines under
25 subsection (a) of this section, each school district in the state shall
26 conduct individual readiness testing on each child entering kindergarten and
27 provide the results of the testing to the child's parents in a timely manner
28 before the child's first day of school.

29 (2) The results of the testing that are provided to parents
30 shall indicate in clear, understandable terminology the child's readiness for
31 entering kindergarten.

32

33 SECTION 1336. Arkansas Code § 6-16-305(b)-(e), concerning funds for
34 research and demonstration centers and consultative services, are amended to
35 read as follows:

36 (b) In such instances, however, the funds shall be appropriated for

1 the use of the State Board of Education and shall be subject to cooperative
2 agreements in writing between the ~~Department of Education~~ Division of
3 Elementary and Secondary Education and the sponsoring teacher training
4 institutions or school districts.

5 (c) Available funds may be used by the ~~department~~ Division of
6 Elementary and Secondary Education for the purpose of securing consultative
7 services.

8 (d)(1) In that eventuality, the ~~department~~ Division of Elementary and
9 Secondary Education shall certify that the expenditures are reasonable and
10 are within customary amounts paid for the services.

11 (2) An annual report of the expenditures shall be filed with the
12 Department of Finance and Administration, the Legislative Council, and the
13 Legislative Joint Auditing Committee.

14 (e) Moreover, full-time state employees shall not be reimbursed for
15 consultative services but may be reimbursed for expenses incurred in
16 participating in these programs in instances where their services have been
17 authorized by the Commissioner of Elementary and Secondary Education or the
18 Director of the ~~Department~~ Division of Career and Technical Education.
19

20 SECTION 1337. Arkansas Code § 6-16-310(a), concerning approval and
21 funding for early childhood and kindergarten programs, is amended to read as
22 follows:

23 (a) The expenditure of state or local tax funds, except as provided in
24 § 6-16-305, shall be limited to program applications approved by the
25 ~~Department of Education~~ Division of Elementary and Secondary Education for
26 children five (5) years of age as defined elsewhere in this subchapter.
27

28 SECTION 1338. Arkansas Code § 6-16-601(a)(4)(B), concerning the
29 authority of postsecondary preparatory programs, is amended to read as
30 follows:

31 (B) Designated by the ~~Department~~ Division of Higher
32 Education; and
33

34 SECTION 1339. Arkansas Code § 6-16-601(c), concerning the definition
35 of "placement test" under the authority of postsecondary preparatory
36 programs, is amended to read as follows:

1 (c) The ~~Department of Education~~ Division of Elementary and Secondary
2 Education shall:

3 (1) Approve content guides for postsecondary preparatory
4 programs with assistance from the ~~Department~~ Division of Higher Education;
5 and

6 (2)(A) Approve or disapprove the annual application of a
7 postsecondary preparatory program after:

8 (i) Reviewing evidence of the postsecondary
9 preparatory program's performance and success; and

10 (ii) Giving priority for approval and funding to a
11 postsecondary preparatory program operated by a partnership between a school
12 district and an institution of higher education.

13 (B) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education shall not approve an application under this subdivision
15 (c)(2) unless the postsecondary preparatory program meets the criteria under
16 this subchapter and established by State Board of Education rules.

17
18 SECTION 1340. The introductory language of Arkansas Code § 6-16-
19 601(d)(1), concerning the authority of postsecondary preparatory programs, is
20 amended to read as follows:

21 (d)(1) In collaboration with the ~~Department~~ Division of Higher
22 Education, the ~~Department of Education~~ Division of Elementary and Secondary
23 Education shall collect and analyze the following data from postsecondary
24 preparatory programs:

25
26 SECTION 1341. Arkansas Code § 6-16-601(d)(1)(I), concerning the
27 authority of postsecondary preparatory programs, is amended to read as
28 follows:

29 (I) The amount of funding the ~~Department of Education~~
30 Division of Elementary and Secondary Education distributed to each
31 postsecondary preparatory program.

32
33 SECTION 1342. The introductory language of Arkansas Code § 6-16-
34 601(d)(2), concerning the authority of postsecondary preparatory programs, is
35 amended to read as follows:

36 (2) The ~~Department of Education~~ Division of Elementary and

1 Secondary Education shall:

2

3 SECTION 1343. Arkansas Code § 6-16-602(a)(4)(A), concerning
4 postsecondary preparatory programs, is amended to read as follows:

5 (4)(A) Use instructors with appropriate content knowledge and
6 specialized training developed by the ~~Department of Education~~ Division of
7 Elementary and Secondary Education for instructors of developmental
8 education.

9

10 SECTION 1344. Arkansas Code § 6-16-602(b), concerning postsecondary
11 preparatory programs, is amended to read as follows:

12 (b) A postsecondary preparatory program shall not receive funding
13 under this subchapter unless the postsecondary preparatory program files an
14 annual application with the ~~department~~ Division of Elementary and Secondary
15 Education and the application is approved under § 6-16-601.

16

17 SECTION 1345. Arkansas Code § 6-16-603(b)(3)(B), concerning local
18 programs and placement tests, is amended to read as follows:

19 (B) The ~~Department of Education~~ Division of Elementary and
20 Secondary Education and the ~~Department~~ Division of Higher Education as
21 appropriate courses for college and career readiness.

22

23 SECTION 1346. The introductory language of Arkansas Code § 6-16-
24 604(a)(3), concerning student enrollment, is amended to read as follows:

25 (3) If space and funding are available after all eligible
26 students who applied to attend a postsecondary preparatory program are
27 enrolled, the ~~Department of Education~~ Division of Elementary and Secondary
28 Education may permit a public school student to enroll in a postsecondary
29 preparatory program if the student:

30

31 SECTION 1347. Arkansas Code § 6-16-604(c), concerning student
32 enrollment, is amended to read as follows:

33 (c) The opportunity to participate in a postsecondary preparatory
34 program under this subchapter shall not be interpreted as mandating the
35 ~~department~~ Division of Elementary and Secondary Education to fund
36 postsecondary preparatory programs at a cost in excess of the funds

1 appropriated and funded in the Public School Fund for this purpose.

2
3 SECTION 1348. Arkansas Code § 6-16-605(a)(2), concerning testing and
4 acceptance of test scores, is amended to read as follows:

5 (2) Completes a postsecondary preparatory program successfully
6 and in the student's senior year of high school enrolls in a mathematics or
7 English language arts course that is designated by the ~~Department of~~
8 ~~Education~~ Division of Elementary and Secondary Education and the ~~Department~~
9 Division of Higher Education as an appropriate course for college and career
10 readiness.

11
12 SECTION 1349. Arkansas Code § 6-16-704 is amended to read as follows:

13 6-16-704. School-year remediation program.

14 Those schools electing not to offer a summer school program shall offer
15 a ~~Department of Education-approved~~ Division of Elementary and Secondary
16 Education-approved remediation program during the regular school year to
17 students in kindergarten through grade three (K-3) not performing at grade
18 level.

19
20 SECTION 1350. Arkansas Code § 6-16-705 is amended to read as follows:

21 6-16-705. Summer school remediation program.

22 Students in kindergarten through grade three (K-3) not performing at
23 grade level during the regular school year shall participate in a ~~Department~~
24 ~~of Education-approved~~ Division of Elementary and Secondary Education-approved
25 remediation program or a summer school remediation program to be eligible for
26 promotion to the next grade.

27
28 SECTION 1351. Arkansas Code § 6-16-803(4) and (5), concerning the
29 definitions of "commissioner" and "department" under the Arkansas Advanced
30 Placement and International Baccalaureate Diploma Incentive Program Act of
31 1995, are repealed.

32 ~~(4) "Commissioner" means the Commissioner of Education;~~

33 ~~(5) "Department" means the Department of Education;~~

34
35 SECTION 1352. Arkansas Code § 6-16-804(a) and (b), concerning the
36 establishment, subsidies, rules, and regulations of the Arkansas Advanced

1 Placement and International Baccalaureate Diploma Incentive Program, are
2 amended to read as follows:

3 (a) The Arkansas Advanced Placement and International Baccalaureate
4 Diploma Incentive Program is hereby established, to be administered by the
5 Commissioner of Elementary and Secondary Education.

6 (b) Contingent upon legislative appropriations and based on criteria
7 established by the ~~Department of Education~~ Division of Elementary and
8 Secondary Education, schools participating in the program may be awarded a
9 one-time equipment and instructional materials grant for providing an
10 advanced placement course or a course offered under the International
11 Baccalaureate Diploma Programme.

12

13 SECTION 1353. Arkansas Code § 6-16-805(b) and (c), concerning funding
14 of the Arkansas Advanced Placement and International Baccalaureate Diploma
15 Incentive Program, are amended to read as follows:

16 (b) All donations, grants, and appropriations received shall be
17 accounted for by the ~~Department of Education~~ Division of Elementary and
18 Secondary Education.

19 (c) The Commissioner of Elementary and Secondary Education may solicit
20 and receive donations and grants for the purpose of making awards.

21

22 SECTION 1354. Arkansas Code § 6-16-901(a), concerning legislative
23 findings regarding the evaluation of instructional programs, is amended to
24 read as follows:

25 (a) The General Assembly finds and acknowledges that a system of
26 evaluation is needed to justify expenditure of state resources on effective
27 instructional programs and to eliminate state funding of ineffective
28 instructional programs. The General Assembly further finds that an evaluation
29 system to examine instructional programs administered by the ~~Department of~~
30 ~~Education~~ Division of Elementary and Secondary Education must be implemented
31 by the Commissioner of Elementary and Secondary Education in order to make a
32 recommendation regarding continuation or termination of any mandated
33 instructional program administered by the ~~department~~ division.

34

35 SECTION 1355. Arkansas Code § 6-16-901(b)(2), concerning legislative
36 findings regarding the evaluation of instructional programs, is amended to

1 read as follows:

2 (2) Each instructional program administered by the ~~department~~
3 division shall be formally reviewed by a program performance audit every four
4 (4) years to evaluate purposes, activities, duties, accomplishments, and
5 resources required to implement the program.

6
7 SECTION 1356. The introductory language of Arkansas Code § 6-16-
8 1004(d), concerning dating violence awareness, is amended to read as follows:

9 (d) The ~~Department of Education~~ Division of Elementary and Secondary
10 Education shall annually provide a list of source materials available for
11 school districts to use to teach a unit on dating violence awareness,
12 including without limitation materials from:

13
14 SECTION 1357. Arkansas Code § 6-16-1202(2)(C), concerning the
15 definition of "endorsed concurrent enrollment course" concerning Advanced
16 Placement and endorsed concurrent enrollment, is amended to read as follows:

17 (C) Is listed in the Arkansas Course Transfer System of
18 the ~~Department~~ Division of Higher Education;

19
20 SECTION 1358. Arkansas Code § 6-16-1204(a)(2), concerning the
21 implementation of Advanced Placement and pre-Advanced Placement coursework,
22 is amended to read as follows:

23 (2) The ~~Department of Education~~ Division of Elementary and
24 Secondary Education shall approve all classes designated as pre-Advanced
25 Placement courses.

26
27 SECTION 1359. The introductory language of Arkansas Code § 6-16-
28 1403(b), concerning digital learning and approved provider list, is amended
29 to read as follows:

30 (b) The ~~Department of Education~~ Division of Elementary and Secondary
31 Education shall annually:

32
33 SECTION 1360. Arkansas Code § 6-16-1405(b), concerning digital
34 learning providers, is amended to read as follows:

35 (b) The ~~Department of Education~~ Division of Elementary and Secondary
36 Education or state board shall not require as a condition of approval of a

1 digital learning provider that the digital learning provider limit the
2 delivery of digital learning courses to public schools that require physical
3 attendance at the public school to successfully complete the credit for which
4 the digital learning course is provided.

5
6 SECTION 1361. Arkansas Code § 6-16-1504(b)(3), concerning school
7 district participation in the Reengagement System and Differentiated Pathway
8 to a High School Diploma Program, is amended to read as follows:

9 (3) Have an audit conducted to ensure that the participating
10 program offered by the school district meets academic standards adopted by
11 the ~~Department of Education~~ Division of Elementary and Secondary Education.

12
13 SECTION 1362. Arkansas Code § 6-16-1505(b)(3), concerning a model
14 contract and model interlocal agreement for local school districts, is
15 amended to read as follows:

16 (3) The responsibilities for data collection and reporting,
17 including student transcripts and data required by the ~~Department of~~
18 ~~Education~~ Division of Elementary and Secondary Education;

19
20 SECTION 1363. Arkansas Code § 6-17-102 is amended to read as follows:

21 6-17-102. Emergency first aid personnel.

22 Every public elementary school and every public secondary school in the
23 State of Arkansas shall have in its employ at least one (1) person who is
24 certified by the American Red Cross or approved by the ~~Department of~~
25 ~~Education~~ Division of Elementary and Secondary Education as qualified to
26 administer emergency first aid and who shall be on the school grounds during
27 normal school hours.

28
29 SECTION 1364. Arkansas Code § 6-17-106(b), concerning insult or abuse
30 of teacher, is amended to read as follows:

31 (b) Each school district shall report to the ~~Department of Education~~
32 Division of Elementary and Secondary Education any prosecutions within the
33 school districts under this section.

34
35 SECTION 1365. Arkansas Code § 6-17-119(a)(2), concerning the
36 definition of "classified employee" under alternative pay programs, is

1 amended to read as follows:

2 (2) "Classified employee" means a person employed by a public
3 school district under a written annual contract who is not required to have a
4 teaching license issued by the ~~Department of Education~~ Division of Elementary
5 and Secondary Education as a condition of employment;

6
7 SECTION 1366. Arkansas Code § 6-17-119(c), concerning alternative pay
8 programs, is amended to read as follows:

9 (c) The ~~department~~ division shall promulgate the rules necessary for
10 the proper implementation of this section.

11
12 SECTION 1367. Arkansas Code § 6-17-201(d)(2), concerning personnel
13 policy requirements for school districts, is amended to read as follows:

14 (2)(A) By September 15 of each year, a school district shall
15 provide the ~~Department of Education~~ Division of Elementary and Secondary
16 Education with the website address at which its current personnel policies,
17 including the salary schedule, may be found.

18 (B) The ~~department~~ division shall notify any school
19 district that has not posted its policies on the school district website or
20 provided the ~~department~~ division with the website address in accordance with
21 this section.

22
23 SECTION 1368. Arkansas Code § 6-17-207, concerning school district
24 accreditation, is amended to read as follows:

25 6-17-207. Accreditation of school district.

26 No school district which does not have written personnel policies shall
27 be accredited by the ~~Department of Education~~ Division of Elementary and
28 Secondary Education.

29
30 SECTION 1369. The introductory language of Arkansas Code § 6-17-
31 301(b)(1)(A), concerning the employment of licensed personnel by school
32 district boards, is amended to read as follows:

33 (A) Been placed on fiscal distress by the ~~Department of~~
34 Education Division of Elementary and Secondary Education because of:

35
36 SECTION 1370. Arkansas Code § 6-17-304(b) and (c), concerning the

1 employment of teachers obligated to another school district and liability of
2 hiring school districts, are amended to read as follows:

3 (b) Either school district may petition the ~~Department of Education~~
4 Division of Elementary and Secondary Education to satisfy the liability by
5 transferring such amount to the entitled school district from funds which the
6 ~~department~~ division would have distributed to the liable school district.

7 (c) Upon receipt of such a petition, the ~~department~~ division shall
8 determine the amount of the liability and satisfy the same by such transfer.

9
10 SECTION 1371. Arkansas Code § 6-17-305(a), concerning student
11 teachers, is amended to read as follows:

12 (a) Any primary or secondary school which has been accredited by the
13 ~~Department of Education~~ Division of Elementary and Secondary Education may be
14 entitled to assignments of student teachers from institutions of higher
15 education in this state, irrespective of accreditation by any other agency,
16 private or public.

17
18 SECTION 1372. Arkansas Code § 6-17-308(c), concerning moving expenses
19 paid for by the State Board of Education, is amended to read as follows:

20 (c) In order to be eligible for the reimbursement, the teacher must
21 apply to the local school district, and the school district must obtain the
22 prior approval from the ~~Department~~ Division of Higher Education for
23 reimbursement before the relocation occurs.

24
25 SECTION 1373. Arkansas Code § 6-17-308(d)(1), concerning moving
26 expenses paid for by the State Board of Education, is amended to read as
27 follows:

28 (d)(1) If the reimbursement is approved, the ~~department~~ division shall
29 provide funds to the school district to reimburse the teacher an amount not
30 to exceed one thousand dollars (\$1,000) for the documented actual expenses
31 incurred in the course of relocating.

32
33 SECTION 1374. Arkansas Code § 6-17-309(a)(2)(B), concerning teaching
34 licensure and waiver, is amended to read as follows:

35 (B) Those persons approved by the ~~Department of Education~~
36 Division of Elementary and Secondary Education to teach the grade level or

1 subject matter of the class in the ~~Department of Education's~~ Division of
2 Elementary and Secondary Education's distance learning program;

3
4 SECTION 1375. Arkansas Code § 6-17-309(a)(2)(C)(ii), concerning
5 teaching licensure and waiver, is amended to read as follows:

6 (ii) Meet the qualification requirements of that
7 institution or the ~~Department~~ Division of Career and Technical Education; and

8
9 SECTION 1376. Arkansas Code § 6-17-310(a)(1), concerning the Office
10 for the Purpose of Teacher Recruitment, is amended to read as follows:

11 (a)(1) There is established within the ~~Department of Education~~
12 Division of Elementary and Secondary Education the Office for the Purpose of
13 Teacher Recruitment for ensuring that the children of our state are taught by
14 highly qualified professionals.

15
16 SECTION 1377. Arkansas Code § 6-17-310(b)(1), concerning the Office
17 for the Purpose of Teacher Recruitment, is amended to read as follows:

18 (1) Develop, disseminate, and distribute written materials and
19 video productions on the importance of teaching as a profession, emphasizing
20 the critical need for teachers in certain geographical areas of the state and
21 the availability of financial scholarships to college students in exchange
22 for service as a licensed teacher in the geographical critical-need area as
23 identified by the ~~Department of Education~~ Division of Elementary and
24 Secondary Education to assist the ~~Department~~ Division of Higher Education;

25
26 SECTION 1378. Arkansas Code § 6-17-310(c)(3)(B), concerning the Office
27 for the Purpose of Teacher Recruitment, is amended to read as follows:

28 (B) The ~~Department~~ Division of Higher Education may assist
29 the office with the measure implemented under subdivision (c)(3)(A) of this
30 section;

31
32 SECTION 1379. Arkansas Code § 6-17-310(c)(10), concerning the Office
33 for the Purpose of Teacher Recruitment, is amended to read as follows:

34 (10) Coordinate teacher recruitment activities with the
35 ~~Department~~ Division of Higher Education;

36

1 SECTION 1380. The introductory language of Arkansas Code § 6-17-
2 310(d), concerning the Office for the Purpose of Teacher Recruitment, is
3 amended to read as follows:

4 (d) The ~~Department of Education~~ Division of Elementary and Secondary
5 Education may develop a supplemental funding program to be known as the
6 “High-Priority Teacher Recruitment Program” that:

7
8 SECTION 1381. Arkansas Code § 6-17-310(e)(2), concerning the Office
9 for the Purpose of Teacher Recruitment, is amended to read as follows:

10 (2) Unacceptably wide achievement gaps as determined by the
11 ~~Department of Education~~ Division of Elementary and Secondary Education in
12 conjunction with the Commission on Closing the Achievement Gap in Arkansas.
13

14 SECTION 1382. Arkansas Code § 6-17-401(b)(2), concerning teacher’s
15 license requirement, is amended to read as follows:

16 (2) Other documentation from the Office of Professional
17 Licensure of the ~~Department of Education~~ Division of Elementary and Secondary
18 Education authorizing employment as a teacher under the conditions set forth
19 by the ~~Department of Education~~ Division of Elementary and Secondary Education
20 in the documentation.
21

22 SECTION 1383. The introductory language of Arkansas Code § 6-17-
23 402(b)(1)(A), concerning rules issued by the State Board of Education, is
24 amended to read as follows:

25 (A) Completes an educator preparation program approved by
26 the ~~Department of Education~~ Division of Elementary and Secondary Education,
27 which shall include without limitation:
28

29 SECTION 1384. Arkansas Code § 6-17-402(d)(2), concerning rules issued
30 by the State Board of Education, is amended to read as follows:

31 (2) The teacher preparation programs for licensure in this state
32 shall report the results of the examinations to the ~~department~~ division upon
33 request.
34

35 SECTION 1385. The introductory language of Arkansas Code § 6-17-
36 403(c), concerning provisional licensure for teachers trained and licensed in

1 other states, is amended to read as follows:

2 (c) The state board shall issue a standard five-year teaching license
3 to an individual who furnishes to the ~~Department of Education~~ Division of
4 Elementary and Secondary Education proof of the following:

5
6 SECTION 1386. Arkansas Code § 6-17-409(a) and (b), concerning
7 alternative educator preparation programs, are amended to read as follows:

8 (a) As used in this section, "alternative educator preparation
9 program" means a program of study approved by the ~~Department of Education~~
10 Division of Elementary and Secondary Education for candidates holding a
11 bachelor's degree who are preparing for licensure as teachers and leaders in
12 public schools in this state.

13 (b)(1) The State Board of Education may offer and operate an
14 alternative educator preparation program.

15 (2)(A) The ~~department~~ division may provide grants of financial
16 assistance to entities that train individuals seeking to obtain licensure
17 through an alternative educator preparation program administered by the
18 ~~department~~ division.

19 (B) The ~~department~~ division shall pay the grants from
20 funds appropriated by the General Assembly to the ~~department~~ division for
21 such purpose.

22 (C) The state board shall promulgate rules to determine
23 eligibility for and amount of awards of the grants concerning the operation
24 of the alternative educator preparation program authorized by this section
25 and for such other purposes as may be necessary in carrying out the intent of
26 this section.

27 (3) The ~~department~~ division may refuse to admit for enrollment
28 in the alternative educator preparation program administered by the
29 ~~department~~ division a person who has been dismissed from a teacher education
30 program at an institution of higher education.

31 (4) If the state board requires an applicant for licensure
32 through an alternative educator preparation program to complete one (1) or
33 more additional college-level courses and the applicant has obtained a
34 bachelor's degree, the required course or courses shall be available as an
35 online course, a traditional face-to-face course, or a hybrid course that is
36 part online instruction and part face-to-face instruction, as approved by the

1 ~~department~~ division.

2
3 SECTION 1387. Arkansas Code § 6-17-409(g), concerning alternative
4 educator preparation programs, is amended to read as follows:

5 (g) Each applicant for a provisional license under this section shall
6 successfully complete the criminal records checks and Child Maltreatment
7 Central Registry check under § 6-17-410 before the ~~department~~ division may
8 issue the license.

9
10 SECTION 1388. Arkansas Code § 6-17-410(a)(1)(A), concerning the
11 application, renewal, revocation, suspension, and probation of teacher
12 licensures, is amended to read as follows:

13 (a)(1)(A)(i) An applicant for a license issued by the State Board of
14 Education, an applicant for license renewal, and a preservice teacher shall
15 apply to the Identification Bureau of the ~~Department~~ Division of Arkansas
16 State Police for a statewide and nationwide criminal records check, to be
17 conducted by the ~~Department~~ Division of Arkansas State Police and the Federal
18 Bureau of Investigation.

19
20 SECTION 1389. Arkansas Code § 6-17-410(a)(1)(B), concerning the
21 application, renewal, revocation, suspension, and probation of teacher
22 licensures, is amended to read as follows:

23 (B) The applicant shall sign a release of information to
24 the ~~Department of Education~~ Division of Elementary and Secondary Education
25 and shall be responsible for the payment of any fee associated with the
26 criminal records check.

27
28 SECTION 1390. Arkansas Code § 6-17-410(a)(2) and (3), concerning the
29 application, renewal, revocation, suspension, and probation of teacher
30 licensures, are amended to read as follows:

31 (2) Upon completion of the criminal records check, the
32 Identification Bureau of the ~~Department~~ Division of Arkansas State Police
33 shall forward all releasable information obtained concerning the applicant to
34 the ~~Department of Education~~ Division of Elementary and Secondary Education.

35 (3)(A) An applicant for a license issued by the state board, an
36 applicant for license renewal, and a preservice teacher are required to

1 request through the ~~Department of Education~~ Division of Elementary and
2 Secondary Education a Child Maltreatment Central Registry check to be
3 conducted by the Department of Human Services.

4 (B) The applicant shall sign a release of information to
5 the ~~Department of Education~~ Division of Elementary and Secondary Education
6 and is responsible for the payment of any fee associated with the Child
7 Maltreatment Central Registry check.

8 (C) The Department of Human Services shall forward all
9 releasable information concerning the applicant to the ~~Department of~~
10 ~~Education~~ Division of Elementary and Secondary Education upon completion of
11 the Child Maltreatment Central Registry check.

12 (D) An institution of higher education is not required to
13 bar a student from enrollment in an educator preparation program due to a
14 true report in the Child Maltreatment Central Registry.

15
16 SECTION 1391. The introductory language of Arkansas Code § 6-17-
17 410(b)(1), concerning the application, renewal, revocation, suspension, and
18 probation of teacher licensures, is amended to read as follows:

19 (b)(1) The state board may issue a six-month nonrenewable letter of
20 provisional eligibility for licensure pending the results of the criminal
21 records check and the Child Maltreatment Central Registry check. However, the
22 Commissioner of Elementary and Secondary Education may extend the period of
23 provisional eligibility to the end of that contract year if:

24
25 SECTION 1392. Arkansas Code § 6-17-410(b)(3), concerning the
26 application, renewal, revocation, suspension, and probation of teacher
27 licensures, is amended to read as follows:

28 (3) If the ~~Department of Education~~ Division of Elementary and
29 Secondary Education receives information from the Department of Human
30 Services that the person holding a letter of provisional eligibility for
31 teacher licensure has a true report in the Child Maltreatment Central
32 Registry, the state board shall immediately revoke the provisional
33 eligibility of the teacher licensure applicant.

34
35 SECTION 1393. Arkansas Code § 6-17-410(d)(A)(iii) and (iv), concerning
36 the application, renewal, revocation, suspension, and probation of teacher

1 licensures, are amended to read as follows:

2 (iii) Intentionally compromising the validity or
3 security of any student test or testing program administered by or required
4 by the state board or the ~~Department of Education~~ Division of Elementary and
5 Secondary Education;

6 (iv) Having the completed examination test score of
7 any testing program required by the state board for teacher licensure
8 declared invalid by the testing program company and so reported to the
9 ~~Department of Education~~ Division of Elementary and Secondary Education by the
10 testing company;

11

12 SECTION 1394. Arkansas Code § 6-17-410(d)(1)(A)(viii), concerning the
13 application, renewal, revocation, suspension, and probation of teacher
14 licensures, is amended to read as follows:

15 (viii) Knowingly submitting or providing false or
16 misleading information or knowingly failing to submit or provide information
17 requested or required by law to the ~~Department of Education~~ Division of
18 Elementary and Secondary Education, the state board, or Arkansas Legislative
19 Audit;

20

21 SECTION 1395. Arkansas Code § 6-17-410(f)(1)(A)(iv), concerning the
22 application, renewal, revocation, suspension, and probation of teacher
23 licensures, is amended to read as follows:

24 (iv) An unlicensed individual admitted to a teacher
25 preparation program approved by the ~~Department of Education~~ Division of
26 Elementary and Secondary Education.

27

28 SECTION 1396. Arkansas Code § 6-17-410(f)(3)(A), concerning the
29 application, renewal, revocation, suspension, and probation of teacher
30 licensures, is amended to read as follows:

31 (3)(A) An unlicensed individual who is disqualified from
32 licensure by subsection (c) of this section may apply for a waiver prior to
33 applying for licensure by submitting to the ~~Department of Education~~ Division
34 of Elementary and Secondary Education:

35

(i) Written request for a hearing;

36

(ii) Proof of acceptance or enrollment in a teacher

1 preparation program approved by the ~~Department of Education~~ Division of
2 Elementary and Secondary Education; and

3 (iii) Written recommendation from the teacher
4 preparation program.

5
6 SECTION 1397. Arkansas Code § 6-17-410(g)(1)(D)-(F), concerning the
7 application, renewal, arevocation, suspension, and probation of teacher
8 licensures, are amended to read as follows:

9 (D) Has intentionally compromised the validity or security
10 of any student test or testing program administered or required by the
11 ~~Department of Education~~ Division of Elementary and Secondary Education;

12 (E) Has knowingly submitted falsified information or
13 failed to submit information requested or required by law to the ~~Department~~
14 ~~of Education~~ Division of Elementary and Secondary Education, the state board,
15 or Arkansas Legislative Audit;

16 (F) Has failed to establish or maintain the necessary
17 requirements and standards set forth in Arkansas law or ~~Department of~~
18 ~~Education~~ Division of Elementary and Secondary Education rules for teacher
19 licensure; or

20
21 SECTION 1398. Arkansas Code § 6-17-410(h)(1), concerning the
22 application, renewal, revocation, suspension, and probation of teacher
23 licensures, is amended to read as follows:

24 (h)(1) Any information received by the ~~Department of Education~~
25 Division of Elementary and Secondary Education from the Identification Bureau
26 of the ~~Department~~ Division of Arkansas State Police or the Department of
27 Human Services pursuant to subsection (a) of this section shall not be
28 available for examination except by the affected applicant for licensure or
29 his or her duly authorized representative, and no record, file, or document
30 shall be removed from the custody of the ~~Department of Education~~ Division of
31 Elementary and Secondary Education.

32
33 SECTION 1399. Arkansas Code § 6-17-410(j)(1) and (2), concerning the
34 application, renewal, revocation, suspension, and probation of teacher
35 licensures, are amended to read as follows:

36 (1) "Preservice teacher" means an unlicensed individual who is

1 accepted or enrolled in a teacher preparation program approved by the
2 ~~Department of Education~~ Division of Elementary and Secondary Education; and

3 (2) "Supervised clinical practice" means the placement of a
4 preservice teacher by a teacher education program approved by the ~~Department~~
5 ~~of Education~~ Division of Elementary and Secondary Education at the
6 educational entity for the purpose of the student completing an internship or
7 a student teaching experience required by the teacher education program.

8
9 SECTION 1400. Arkansas Code § 6-17-411 is amended to read as follows:

10 6-17-411. Criminal records check as a condition for initial employment
11 of licensed personnel – Definitions.

12 (a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,
13 the board of directors of an educational entity shall require as a condition
14 for initial employment by the educational entity that any person holding a
15 license issued by the State Board of Education and making application for
16 employment authorize release to the ~~Department of Education~~ Division of
17 Elementary and Secondary Education the results of:

18 (i) Statewide and nationwide criminal records checks
19 by the Identification Bureau of the ~~Department~~ Division of Arkansas State
20 Police, which conform to the applicable federal standards and include the
21 taking of the applicant's fingerprints; and

22 (ii) The Child Maltreatment Central Registry check
23 by the Department of Human Services.

24 (B)(i) The board of directors of a school district created
25 by consolidation, annexation, or detachment may waive the requirements under
26 subdivision (a)(1)(A) of this section for personnel who were employed by an
27 affected district immediately before the annexation, consolidation, or
28 detachment and who had a complete criminal background check conducted as a
29 condition of the person's most recent employment with the affected district
30 as required under this section.

31 (ii) As used in subdivision (a)(1)(B)(i) of this
32 section, "affected district" means a school district that loses territory or
33 students as a result of annexation, consolidation, or detachment.

34 (2) Unless the employing educational entity's board of directors
35 has taken action to pay for the cost of criminal background checks or the
36 Child Maltreatment Central Registry checks required by this section, the

1 employment applicant shall be responsible for the payment of any fee
2 associated with the criminal records check and the Child Maltreatment Central
3 Registry check.

4 (3) At the conclusion of the criminal records check required by
5 this section, the Identification Bureau of the ~~Department~~ Division of
6 Arkansas State Police may maintain the fingerprints in the automated
7 fingerprint identification system.

8 (4)(A) Any information received by the ~~Department of Education~~
9 Division of Elementary and Secondary Education from the Identification Bureau
10 of the ~~Department~~ Division of Arkansas State Police or the Department of
11 Human Services pursuant to this section shall not be available for
12 examination except by the affected applicant for employment or his or her
13 duly authorized representative, and no record, file, or document shall be
14 removed from the custody of the ~~Department of Education~~ Division of
15 Elementary and Secondary Education.

16 (B) Any information made available to the affected
17 applicant for employment shall be information pertaining to that applicant
18 only.

19 (C) Rights of privilege and confidentiality established
20 under this section shall not extend to any document created for purposes
21 other than this background check.

22 (5) The ~~Department of Education~~ Division of Elementary and
23 Secondary Education shall promptly inform the board of directors of the
24 educational entity whether or not the affected applicant is eligible for
25 employment as provided by subsection (b) of this section.

26 (b)(1)(A) No person holding a license from the state board shall be
27 eligible for employment by an educational entity if the results of the
28 criminal records check released to the ~~Department of Education~~ Division of
29 Elementary and Secondary Education by the applicant reveal that the applicant
30 has pleaded guilty or nolo contendere to or has been found guilty of any
31 offense that will or may result in license revocation by the state board
32 under § 6-17-410, unless the state board waives revocation.

33 (B) No person holding a license issued by the state board
34 shall be eligible for employment by an educational entity if the results of
35 the Child Maltreatment Central Registry check released to the ~~Department of~~
36 ~~Education~~ Division of Elementary and Secondary Education reveal that the

1 applicant has a true report in the Child Maltreatment Central Registry,
2 unless the state board waives revocation under § 6-17-410.

3 (2) However, the board of directors of an educational entity is
4 authorized to offer provisional employment to the affected applicant pending
5 notification from the ~~Department of Education~~ Division of Elementary and
6 Secondary Education that the:

7 (A) Applicant is eligible for employment based on the
8 background checks; or

9 (B) State board has waived the disqualifying offense or
10 placement on the Child Maltreatment Central Registry.

11 (c) The board of directors of an educational entity shall require as a
12 condition for supervised clinical practice at the educational entity that a
13 preservice teacher seeking to conduct his or her supervised clinical practice
14 shall authorize the release to the ~~Department of Education~~ Division of
15 Elementary and Secondary Education of the results of the criminal records
16 background check and Child Maltreatment Central Registry check required under
17 subdivision (a)(1)(A) of this section.

18 (d) As used in this section:

19 (1) "Educational entity" means:

20 (A) The ~~Department of Education~~ Division of Elementary and
21 Secondary Education; or

22 (B) An entity that is identified by the ~~Department of~~
23 Education Division of Elementary and Secondary Education as a local education
24 agency, except that for a public school operated by a school district the
25 school district is the educational entity;

26 (2) "Preservice teacher" means an unlicensed individual who is
27 accepted or enrolled in a teacher preparation program approved by the
28 ~~Department of Education~~ Division of Elementary and Secondary Education; and

29 (3) "Supervised clinical practice" means the placement of a
30 preservice teacher by a teacher education program approved by the ~~Department~~
31 of Education Division of Elementary and Secondary Education at the
32 educational entity for the purpose of the student completing an internship or
33 student teaching experience required by the teacher education program.

34
35 SECTION 1401. Arkansas Code § 6-17-412(a)(1), concerning certification
36 by the National Board for Professional Teaching Standards, is amended to read

1 as follows:

2 (1) "Classroom teacher" means an individual who is required to
3 hold a teaching license from the ~~Department of Education~~ Division of
4 Elementary and Secondary Education and who is engaged directly in instruction
5 with students in a classroom setting for more than seventy percent (70%) of
6 the individual's contracted time;

7
8 SECTION 1402. Arkansas Code § 6-17-413(a)(1)(A), concerning bonuses
9 and certification funding by the National Board for Professional Teaching
10 Standards, is amended to read as follows:

11 (a)(1)(A) The ~~Department of Education~~ Division of Elementary and
12 Secondary Education shall pay the full amount of the participation fee of the
13 National Board for Professional Teaching Standards and provide, if determined
14 to be necessary by the ~~department~~ division, substitute pay for a maximum of
15 three (3) days of approved paid leave for teachers selected by the State
16 Board of Education to participate in the program of the national board.

17
18 SECTION 1403. The introductory language of Arkansas Code § 6-17-
19 413(a)(3)(A), concerning bonuses and certification funding by the National
20 Board for Professional Teaching Standards, is amended to read as follows:

21 (3)(A) The ~~department~~ division shall pay a yearly incentive
22 bonus of five thousand dollars (\$5,000) for no more than ten (10) school
23 years or, in the case of a recertification obtained before January 1, 2018,
24 for the life of the recertification to any classroom teacher, building-level
25 principal, or building-level assistant principal who:

26
27 SECTION 1404. Arkansas Code § 6-17-413(b) and (c), concerning bonuses
28 and certification funding by the National Board for Professional Teaching
29 Standards, are amended to read as follows:

30 (b)(1) A teacher who receives state moneys for the participation fee
31 of the National Board for Professional Teaching Standards but who does not
32 complete the certification process within three (3) years after the teacher's
33 entry into the certification program of the national board or who becomes
34 certified by the national board but does not teach or serve as a building-
35 level principal or building-level assistant principal in the Arkansas public
36 school system for three (3) continuous school years after receiving the

1 certification by the national board shall repay the ~~department~~ division the
2 amount it contributed to the participation fee of the national board and the
3 total amount it contributed to any yearly bonus.

4 (2) If the teacher, principal, or assistant principal leaves the
5 employment of a public school district before the three (3) continuous years
6 are completed and is employed by an Arkansas institution of higher education
7 or employed by an education service cooperative and the teacher does not
8 teach in a classroom with students, the teacher, principal, or assistant
9 principal shall repay the ~~department~~ division the amount it contributed to
10 the participation fee of the national board and the total amount it
11 contributed to any yearly salary bonus.

12 (3) The State Board of Education may suspend the Arkansas
13 teacher's license of any person that fails, when required to do so, to repay
14 moneys contributed by the ~~department~~ division for the certification program
15 of the national board.

16 (4) Repayment of moneys contributed by the ~~department~~ division
17 is not required if, due to the death or disability of the teacher or other
18 extenuating circumstances as may be recognized by the State Board of
19 Education, the teacher does not complete the certification process of the
20 national board or does not teach in the Arkansas public school system for
21 three (3) continuous school years after completing the certification process
22 of the national board.

23 (c)(1) Provisions of this section and § 6-17-412 shall apply only to
24 the extent that funds are appropriated to the ~~department~~ division to pay for
25 these provisions.

26 (2)(A) For a member of the Arkansas Teacher Retirement System,
27 the ~~department~~ division shall withhold any employee contributions when
28 necessary from the incentive bonus and shall send the employee contributions
29 to the system for credit as a part of the member's salary.

30 (B) The employer contributions shall be provided from
31 funds that are appropriated to the ~~department~~ division to pay for the bonuses
32 and shall be sent to the system for credit as employer contributions to match
33 the member's salary.

34
35 SECTION 1405. The introductory language of Arkansas Code § 6-17-
36 413(d)(2), concerning bonuses and certification funding by the National Board

1 for Professional Teaching Standards, is amended to read as follows:

2 (2) By December 1 of each year, the ~~department~~ division shall
3 pay a yearly incentive bonus of five thousand dollars (\$5,000) to a speech-
4 language pathologist who:

5

6 SECTION 1406. Arkansas Code § 6-17-413(d)(3)(A)(ii), concerning
7 bonuses and certification funding by the National Board for Professional
8 Teaching Standards, is amended to read as follows:

9 (ii) If sufficient funds are not available to pay
10 the full amount of the bonus to each certified speech-language pathologist as
11 provided under this section, the ~~department~~ division may reduce the amount of
12 the bonus for each qualified recipient proportionately as necessary to
13 provide a bonus to each qualified speech-language pathologist in an equal
14 amount.

15

16 SECTION 1407. Arkansas Code § 6-17-413(d)(5)(A)(i), concerning bonuses
17 and certification funding by the National Board for Professional Teaching
18 Standards, is amended to read as follows:

19 (5)(A)(i) If a speech-language pathologist who receives a bonus
20 under this subsection leaves employment in the Arkansas public school system
21 before completing three (3) continuous school years of employment, the
22 speech-language pathologist shall repay the ~~department~~ division a prorated
23 portion of the bonus received in the school year based on a daily rate for
24 the remainder of a school year in which the speech-language pathologist
25 leaves employment.

26

27 SECTION 1408. The introductory language of Arkansas Code § 6-17-
28 413(e)(1), concerning bonuses and certification funding by the National Board
29 for Professional Teaching Standards, is amended to read as follows:

30 (e)(1) The ~~department~~ division shall pay a yearly incentive bonus to a
31 person who:

32

33 SECTION 1409. Arkansas Code § 6-17-413(e)(3)(F)(ii), concerning
34 bonuses and certification funding by the National Board for Professional
35 Teaching Standards, is amended to read as follows:

36 (ii) A person who, as of December 1, 2017, meets the

1 qualifications for a yearly incentive bonus under both this subsection and
2 subsection (a) of this section may make an irrevocable election to receive
3 future yearly incentive bonuses under this subsection by filing a written
4 election with the ~~Department~~ division no later than July 1, 2019.

5
6 SECTION 1410. Arkansas Code § 6-17-414(a)(1)(B)(i), concerning a
7 criminal record check as condition for initial employment of nonlicensed
8 personnel, is amended to read as follows:

9 (B)(i) The person shall sign a release of information to
10 the ~~Department of Education~~ Division of Elementary and Secondary Education.

11
12 SECTION 1411. Arkansas Code § 6-17-414(a)(2)(A), concerning a criminal
13 record check as condition for initial employment of nonlicensed personnel, is
14 amended to read as follows:

15 (2)(A) Upon completion of the criminal records check, the
16 Identification Bureau of the ~~Department~~ Division of Arkansas State Police
17 shall forward all releasable information obtained concerning the person to
18 the ~~Department of Education~~ Division of Elementary and Secondary Education,
19 which shall promptly inform the board of directors of the educational entity
20 whether or not the applicant is eligible for employment as provided by
21 subsection (b) of this section.

22
23 SECTION 1412. Arkansas Code § 6-17-414(a)(3)(B) and (C), concerning a
24 criminal record check as condition for initial employment of nonlicensed
25 personnel, are amended to read as follows:

26 (B) The applicant shall sign a release of information to
27 the ~~Department of Education~~ Division of Elementary and Secondary Education
28 and shall be responsible for the payment of any fee associated with the Child
29 Maltreatment Central Registry check.

30 (C) The Department of Human Services shall forward all
31 releasable information concerning the applicant to the ~~Department of~~
32 Education Division of Elementary and Secondary Education upon completion of
33 the Child Maltreatment Central Registry check.

34
35 SECTION 1413. Arkansas Code § 6-17-414(c), concerning a criminal
36 record check as condition for initial employment of nonlicensed personnel, is

1 amended to read as follows:

2 (c) However, the board of directors of an educational entity is
3 authorized to offer provisional employment to an applicant pending receipt of
4 eligibility information from the ~~Department of Education~~ Division of
5 Elementary and Secondary Education.

6
7 SECTION 1414. Arkansas Code § 6-17-414(d)(1), concerning a criminal
8 record check as condition for initial employment of nonlicensed personnel, is
9 amended to read as follows:

10 (d)(1) Any information received by the ~~Department of Education~~
11 Division of Elementary and Secondary Education from the Identification Bureau
12 of the ~~Department~~ Division of Arkansas State Police or the Department of
13 Human Services pursuant to this section shall not be available for
14 examination except by the affected applicant for employment or his or her
15 duly authorized representative, and no record, file, or document shall be
16 removed from the custody of the ~~Department of Education~~ Division of
17 Elementary and Secondary Education.

18
19 SECTION 1415. Arkansas Code § 6-17-414(e)(4), concerning a criminal
20 record check as condition for initial employment of nonlicensed personnel, is
21 amended to read as follows:

22 (4) Knowingly submits or provides false or misleading
23 information or knowingly fails to submit or provide information requested or
24 required by law to the ~~Department of Education~~ Division of Elementary and
25 Secondary Education, the state board, or Arkansas Legislative Audit;

26
27 SECTION 1416. Arkansas Code § 6-17-414(f)(1)(B) and (C), concerning a
28 criminal record check as condition for initial employment of nonlicensed
29 personnel, are amended to read as follows:

30 (B) Has intentionally compromised the validity or security
31 of any student test or testing program administered or required by the
32 ~~Department of Education~~ Division of Elementary and Secondary Education;

33 (C) Has knowingly submitted falsified information or
34 failed to submit information requested or required by law to the ~~Department~~
35 of Education Division of Elementary and Secondary Education, the state board,
36 or Arkansas Legislative Audit; or

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SECTION 1417. Arkansas Code § 6-17-414(g)(5)(B), concerning a criminal record check as condition for initial employment of nonlicensed personnel, is amended to read as follows:

(B) After adopting a resolution granting a waiver, the board of directors of an educational entity shall immediately provide a copy of the resolution and waiver request to the ~~Department of Education~~ Division of Elementary and Secondary Education.

SECTION 1418. Arkansas Code § 6-17-414(h)(1)(A) and (B), concerning a criminal record check as condition for initial employment of nonlicensed personnel, are amended to read as follows:

(A) The ~~Department of Education~~ Division of Elementary and Secondary Education; or

(B) An entity that is identified by the ~~Department of Education~~ Division of Elementary and Secondary Education as a local education agency, except that for a public school operated by a school district the school district is the educational entity; and

SECTION 1419. Arkansas Code § 6-17-414(h)(2)(C), concerning a criminal record check as a condition for initial employment of nonlicensed personnel, is amended to read as follows:

(C) Designated employee position with the ~~Department of Education~~ Division of Elementary and Secondary Education.

SECTION 1420. Arkansas Code § 6-17-421(b)(1)(A), concerning a criminal record check for fraudulent acts, is amended to read as follows:

(b)(1)(A) Upon making application for employment in a position as a fiscal officer of an educational entity, the board of directors of the educational entity shall require the employment applicant to authorize release to the ~~Department of Education~~ Division of Elementary and Secondary Education the results of statewide and nationwide criminal records checks by the Identification Bureau of the ~~Department~~ Division of Arkansas State Police.

SECTION 1421. Arkansas Code § 6-17-421(b)(3)(A), concerning a criminal

1 record check for fraudulent acts, is amended to read as follows:

2 (3)(A) Any information received by the ~~Department of Education~~
3 Division of Elementary and Secondary Education from the Identification Bureau
4 of the ~~Department~~ Division of Arkansas State Police or the Department of
5 Human Services pursuant to this section shall not be available for
6 examination except by the affected applicant for employment or his or her
7 duly authorized representative, and no record, file, or document shall be
8 removed from the custody of the ~~Department of Education~~ Division of
9 Elementary and Secondary Education.

10
11 SECTION 1422. Arkansas Code § 6-17-421(b)(4), concerning a criminal
12 record check for fraudulent acts, is amended to read as follows:

13 (4) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education shall promptly inform the board of directors of the
15 educational entity whether or not the affected employment applicant is
16 eligible for employment as provided in this subsection.

17
18 SECTION 1423. Arkansas Code § 6-17-421(c), concerning a criminal
19 record check for fraudulent acts, is amended to read as follows:

20 (c)(1) No person shall be eligible for employment as a fiscal officer
21 by an educational entity if the results of the criminal records check
22 released to the ~~Department of Education~~ Division of Elementary and Secondary
23 Education by the applicant reveal that the applicant has pleaded guilty or
24 nolo contendere to or has been found guilty of a fraudulent act but only
25 after an opportunity for a hearing before the State Board of Education upon
26 reasonable notice in writing.

27 (2) However, the board of directors of an educational entity is
28 authorized to offer provisional employment to the affected applicant pending
29 receipt of eligibility information from the ~~Department of Education~~ Division
30 of Elementary and Secondary Education.

31
32 SECTION 1424. Arkansas Code § 6-17-422(b)(1)(A), concerning the
33 establishment of the Professional Licensure Standards and Board, is amended
34 to read as follows:

35 (A) The Commissioner of Elementary and Secondary Education
36 or his or her designee, who shall serve as a nonvoting member;

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SECTION 1425. Arkansas Code § 6-17-422(b)(1)(E), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

(E) One (1) nonvoting representative designated by the ~~Department of Education~~ Division of Elementary and Secondary Education from its Human Resources, Educator Effectiveness and Licensure Division recommended by the commissioner;

SECTION 1426. Arkansas Code § 6-17-422(g)(2), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

(2) Members of the Professional Licensure Standards Board may receive expense reimbursement in accordance with § 25-16-902, to be paid by the ~~Department of Education~~ Division of Elementary and Secondary Education to the extent money is available for that purpose.

SECTION 1427. Arkansas Code § 6-17-422(h)(2)(A), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

(2)(A) With the assistance of the ~~Department of Education~~ Division of Elementary and Secondary Education and the ~~Department~~ Division of Higher Education, develop a system for the annual reporting and review of educator preparation program quality.

SECTION 1428. Arkansas Code § 6-17-422(h)(4)(A)(ii), concerning the establishment of the Professional Licensure Standards Board, is amended to read as follows:

(ii) Request through the ~~Department of Education~~ Division of Elementary and Secondary Education a Child Maltreatment Central Registry check to be conducted by the Department of Human Services.

SECTION 1429. Arkansas Code § 6-17-424(b), concerning the eligibility of a school counselor for administrator licensure for counselors, is amended to read as follows:

(b) The ~~Department of Education~~ Division of Elementary and Secondary

1 Education shall promulgate the rules necessary to implement this section.

2
3 SECTION 1430. The introductory language of Arkansas Code § 6-17-
4 426(a)(1), concerning a review of repeat audit findings by the Professional
5 Licensure Standards Board, is amended to read as follows:

6 (a)(1) The Legislative Joint Auditing Committee may refer an audit
7 report of a school district to the ~~Department of Education~~ Division of
8 Elementary and Secondary Education if:

9
10 SECTION 1431. Arkansas Code § 6-17-426(a)(2), concerning a review of
11 repeat audit findings by the Professional Licensure Standards Board, is
12 amended to read as follows:

13 (2) The ~~department~~ division shall submit the audit report
14 referred in subdivision (a)(1) of this section to the Professional Licensure
15 Standards Board in forms approved by the ~~department~~ division.

16
17 SECTION 1432. Arkansas Code § 6-17-427(a)(1) and (2), concerning
18 superintendent licenses and superintendent mentoring program requirement, are
19 amended to read as follows:

20 (a)(1) The ~~Department of Education~~ Division of Elementary and
21 Secondary Education shall develop and sponsor a superintendent mentoring
22 program for first-year superintendents that includes without limitation:

- 23 (A) Curriculum and instruction;
24 (B) Ethics;
25 (C) Facilities;
26 (D) Human resources;
27 (E) Leadership;
28 (F) School funding; and
29 (G) Technology.

30 (2) The ~~department~~ division shall incorporate all training that
31 is currently required for first-year superintendents into the superintendent
32 mentoring program.

33
34 SECTION 1433. Arkansas Code § 6-17-428(d)(1), concerning ethical
35 violations, is amended to read as follows:

36 (1) The ~~Department of Education~~ Division of Elementary and

1 Secondary Education;

2

3 SECTION 1434. Arkansas Code § 6-17-428(p)(3)(A)(i), concerning ethical
4 violations, is amended to read as follows:

5 (3)(A)(i) The ~~department~~ division shall establish and maintain a
6 website providing a school hiring officer with the ability to determine if
7 the State Board of Education has acted upon an ethics complaint concerning a
8 violation of the standard in subdivision (p)(2)(A) of this section involving
9 the sexual abuse of a student by an applicant for employment who holds an
10 Arkansas teaching or administrator's license or an individual intending to be
11 employed under a waiver from licensure as a teacher of record or as an
12 administrator.

13

14 SECTION 1435. Arkansas Code § 6-17-428(p)(3)(B), concerning ethical
15 violations, is amended to read as follows:

16 (B) Before an educator who holds an Arkansas teaching
17 license or administrator's license or an individual intending to be employed
18 under a waiver from licensure as a teacher of record or as an administrator
19 may be hired for employment at an Arkansas school, the school hiring officer
20 shall check the website maintained by the ~~department~~ division under
21 subdivision (p)(3)(A) of this section to determine whether the State Board of
22 Education has acted upon a violation of the standard in subdivision (p)(2)(A)
23 of this section involving the sexual abuse of a student by the applicant.

24

25 SECTION 1436. The introductory language of Arkansas Code § 6-17-
26 428(q), concerning ethical violations, is amended to read as follows:

27 (q) Subject to the disclosure limitations of subsections (m) and (o)
28 of this section, the ~~department~~ division may include on the ~~department's~~
29 division's public website for licensure the following information on each
30 violation of the code of ethics by an educator whose license the State Board
31 of Education has suspended, revoked, denied, or not renewed based on the
32 recommendations of the ethics subcommittee:

33

34 SECTION 1437. Arkansas Code § 6-17-429(e), concerning the Right to
35 Read Act, is amended to read as follows:

36 (e) A provider of a state-approved educator preparation program shall

1 include in its annual report to the ~~Department of Education~~ Division of
2 Elementary and Secondary Education a description of the provider's program to
3 prepare educators to teach reading using scientific reading instruction.
4

5 SECTION 1438. Arkansas Code § 6-17-429(g), concerning the Right to
6 Read Act, is amended to read as follows:

7 (g)(1) The ~~department~~ division is vested with the authority to and
8 shall enforce this section.

9 (2) The ~~department~~ division shall promulgate rules to implement
10 this section.
11

12 SECTION 1439. Arkansas Code § 6-17-603 is amended to read as follows:
13 6-17-603. Reporting of test scores – Confidentiality.

14 (a)(1) Scores from the tests required under this subchapter and § 6-
15 17-402 shall not be disclosed but shall be retained by the ~~Department of~~
16 Education Division of Elementary and Secondary Education as confidential
17 records not subject to the Freedom of Information Act of 1967, § 25-19-101 et
18 seq., or any other act that would require the disclosure thereof.

19 (2) However, the ~~department~~ division shall provide each licensee
20 with that person's test score and the grader's analysis of the writing
21 portion of the test.

22 (b) The ~~department~~ division shall transmit to the Governor and the
23 House Committee on Education and the Senate Committee on Education a
24 composite report indicating by county the number of persons who failed the
25 tests and the number of persons who passed the tests.
26

27 SECTION 1440. Arkansas Code § 6-17-701(a), concerning a program to
28 improve reading skills, is amended to read as follows:

29 (a) The ~~Department of Education~~ Division of Elementary and Secondary
30 Education is authorized and directed to develop and implement an inclusive
31 statewide program to improve the reading skills of students in the public
32 schools of this state.
33

34 SECTION 1441. Arkansas Code § 6-17-701(c), concerning a program to
35 improve reading skills, is amended to read as follows:

36 (c) The intensive in-service training in the teaching of reading

1 provided for in this section shall be developed and implemented under the
2 direction of reading specialists of the ~~department~~ division and selected in-
3 service teachers who have been identified as having been particularly
4 successful in the teaching of reading.

5
6 SECTION 1442. Arkansas Code § 6-17-702(a)(1)(B), concerning school
7 district staff development sessions, is amended to read as follows:

8 (B) Licensed personnel may count up to two (2) days of six
9 (6) hours each of attendance at instructional professional development
10 sessions conducted by bona fide professional organizations toward fulfillment
11 of the ten (10) days of staff development required by the Standards for
12 Accreditation of Arkansas Public Schools and School Districts, provided the
13 sessions have been certified by the ~~Department of Education~~ Division of
14 Elementary and Secondary Education.

15
16 SECTION 1443. Arkansas Code § 6-17-704(a)(1), concerning a
17 professional development plan, is amended to read as follows:

18 (1) Is required by statute or by the ~~Department of Education~~
19 Division of Elementary and Secondary Education; or

20
21 SECTION 1444. Arkansas Code § 6-17-704(e)(1), concerning a
22 professional development plan, is amended to read as follows:

23 (1) Shall comply with the ~~Department of Education~~ Division of
24 Elementary and Secondary Education Rules Governing Professional Development;
25 and

26
27 SECTION 1445. Arkansas Code § 6-17-704(f)(2), concerning a
28 professional development plan, is amended to read as follows:

29 (2) Delivered by any method, online or otherwise, approved by
30 the ~~Department of Education~~ Division of Elementary and Secondary Education
31 under the State Board of Education rules.

32
33 SECTION 1446. Arkansas Code § 6-17-705(d), concerning professional
34 development credit, is amended to read as follows:

35 (d) A person who holds any license issued by the State Board of
36 Education may obtain credit for required professional development through a

1 micro-credentialing process approved by the ~~Department of Education~~ Division
2 of Elementary and Secondary Education.

3
4 SECTION 1447. Arkansas Code § 6-17-707(b) and (c), concerning the
5 Arkansas Online Professional Development Initiative, are amended to read as
6 follows:

7 (b) Under the initiative, the Commissioner of Elementary and Secondary
8 Education shall identify teacher professional development needs in the state
9 and prioritize the needs based on the areas of professional development most
10 needed to improve academic and teaching knowledge and skills of licensed
11 personnel.

12 (c) Based on the needs and priorities identified in the assessment
13 under subsection (b) of this section, the commissioner shall work with the
14 Director of the Educational Television Division of the ~~Department of~~
15 ~~Education~~ Division of Elementary and Secondary Education and local school
16 districts to develop a statewide online professional development program that
17 includes quality professional development courses that:

18 (1) Are aligned to the required focus areas identified in the
19 State Board of Education rules governing professional development and the
20 Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.;

21 (2) Are aligned with the clear, specific, and challenging
22 academic content areas as established by the ~~Department of Education~~ Division
23 of Elementary and Secondary Education as required under § 6-15-2906;

24 (3) Are aligned with the Arkansas academic standards established
25 by the ~~department~~ division for each class level or subject area included in
26 the respective professional development programs;

27 (4) Are research-based and available from sources with expertise
28 in technology-delivered professional development courses;

29 (5) Are consistent with the Board of Control for Southern
30 Regional Education multistate online professional development standards in
31 existence on January 1, 2005;

32 (6) Focus on improving student academic achievement by improving
33 a teacher's academic and teaching knowledge and skills; and

34 (7) Include an assessment at the end of the program designed to
35 measure each licensed person's level of understanding and ability to
36 implement or apply the information presented in the program.

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SECTION 1448. Arkansas Code § 6-17-707(d)(4), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

(4) If a technology-delivered professional development course or service that has been identified as needed under the assessment in subsection (b) of this section is not available, the network or other providers shall work with the ~~department~~ division to develop a course or service to meet the identified need.

SECTION 1449. Arkansas Code § 6-17-707(e), concerning the Arkansas Online Professional Development Initiative, is amended to read as follows:

(e)(1) The ~~department~~ division shall determine the content of and preapprove all professional development courses or programs delivered by the network that qualify for professional development credit as required by the Standards for Accreditation of Arkansas Public Schools and School Districts or teacher licensure requirements.

(2) The ~~department~~ division may approve professional development obtained through a micro-credentialing process.

SECTION 1450. Arkansas Code § 6-17-707(f)-(h), concerning the Arkansas Online Professional Development Initiative, are amended to read as follows:

(f) The ~~department~~ division shall provide the staff and resources needed to provide the quality leadership necessary to coordinate the initiative.

(g) The initiative shall include a method for the ~~department~~ division, the network, school districts, schools, and licensed personnel to annually evaluate the effectiveness of the initiative and its online professional development course and programs.

(h)(1) As part of a school district support plan, the ~~department~~ division may include guidelines for the professional development programs to be delivered to the licensed personnel employed by a school district receiving Level 3 – Coordinated, Level 4 – Directed, or Level 5 – Intensive support.

(2) As part of the school district support plan, the ~~department~~ division may require the participation and completion of professional development courses or programs by licensed personnel in a school or school

1 district as appropriate for the licensed personnel's job assignments and
2 duties.

3

4 SECTION 1451. Arkansas Code § 6-17-708(a), concerning teen suicide
5 awareness and prevention professional development, is amended to read as
6 follows:

7 (a)(1) The ~~Department of Education~~ Division of Elementary and
8 Secondary Education shall require two (2) hours of professional development
9 in teen suicide awareness and prevention for licensed public school personnel
10 according to the professional development schedule under § 6-17-709.

11 (2) The professional development under this section may be
12 accomplished through self-review of suitable suicide prevention materials
13 approved by the ~~department~~ division.

14

15 SECTION 1452. Arkansas Code § 6-17-709(b), concerning a professional
16 development schedule for school personnel, is amended to read as follows:

17 (b)(1) Two (2) hours of the professional development required by
18 subsection (a) of this section shall be counted in one (1) school year toward
19 the minimum number of hours of professional development required for licensed
20 educators under the ~~Department of Education~~ Division of Elementary and
21 Secondary Education Rules Governing Professional Development.

22 (2) If additional hours are obtained by a licensed educator, the
23 school district may count those hours as part of the minimum number of hours
24 of professional development required for licensed educators under the
25 ~~Department of Education~~ Division of Elementary and Secondary Education Rules
26 Governing Professional Development.

27

28 SECTION 1453. Arkansas Code § 6-17-709(d), concerning the Arkansas
29 Online Professional Development Initiative, is amended to read as follows:

30 (d) The ~~Department of Education~~ Division of Elementary and Secondary
31 Education shall establish the curriculum under this section in collaboration
32 with educational agencies and associations, including without limitation the:

- 33 (1) ~~Department~~ Division of Higher Education;
34 (2) Arkansas Association of Educational Administrators;
35 (3) Arkansas Education Association;
36 (4) Arkansas School Boards Association;

1 (5) Arkansas Association for Supervision and Curriculum
2 Development;

3 (6) Arkansas State Teachers Association; and

4 (7) Arkansas Rural Ed Association.
5

6 SECTION 1454. Arkansas Code § 6-17-709(e)(1)(A), concerning the
7 Arkansas Online Professional Development Initiative, is amended to read as
8 follows:

9 (A) The ~~Department of Education~~ Division of Elementary and
10 Secondary Education;

11

12 SECTION 1455. Arkansas Code § 6-17-709(e)(1)(C), concerning the
13 Arkansas Online Professional Development Initiative, is amended to read as
14 follows:

15 (C) Providers approved by the ~~Department of Education~~
16 Division of Elementary and Secondary Education.

17

18 SECTION 1456. The introductory language of Arkansas Code § 6-17-
19 709(e)(3)(A), concerning the Arkansas Online Professional Development
20 Initiative, is amended to read as follows:

21 (3)(A) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education shall not issue an initial teaching license until the
23 applicant verifies that he or she has obtained the required professional
24 development concerning:

25

26 SECTION 1457. Arkansas Code § 6-17-709(e)(3)(B), concerning the
27 Arkansas Online Professional Development Initiative, is amended to read as
28 follows:

29 (B) For a teaching license issued under the state's
30 reciprocity provisions to an out-of-state teacher, the ~~Department of~~
31 Education Division of Elementary and Secondary Education shall issue a
32 provisional license until the licensee obtains the professional development
33 identified in subdivision (e)(3)(A) of this section.
34

35 SECTION 1458. Arkansas Code § 6-17-710(b), concerning human
36 trafficking professional development, is amended to read as follows:

1 (b) The ~~Department of Education~~ Division of Elementary and Secondary
2 Education or another person, firm, or corporation designated by the
3 ~~department~~ division shall develop and administer the professional development
4 under subsection (a) of this section.

5
6 SECTION 1459. Arkansas Code § 6-17-803(b)(3), concerning optional
7 contracts for teachers payable in monthly installments, is amended to read as
8 follows:

9 (3) If any teacher fails to repay any money owed to a school
10 district upon a contract breached by him or her, the secretary of the school
11 district shall certify the failure to the ~~Department of Education~~ Division of
12 Elementary and Secondary Education, and the State Board of Education shall
13 suspend the teacher's license until all of the money is repaid.

14
15 SECTION 1460. Arkansas Code § 6-17-805(f)(1), concerning deduction
16 from salary for professional membership dues, is amended to read as follows:

17 (1) "Classified employee" means any person employed by a school
18 district under a written annual contract who is not required to have a
19 teaching license issued by the ~~Department of Education~~ Division of Elementary
20 and Secondary Education as a condition of employment; and

21
22 SECTION 1461. Arkansas Code § 6-17-811(a)(2)(A), concerning incentives
23 for teacher recruitment and retention in high-priority districts, is amended
24 to read as follows:

25 (2)(A) "National school lunch students" means those students or
26 the percentage of enrolled students from low socioeconomic backgrounds as
27 indicated by eligibility for free or reduced-price meals under the National
28 School Lunch Act as determined on October 1 of each previous school year and
29 submitted to the ~~Department of Education~~ Division of Elementary and Secondary
30 Education, unless the school district is identified by the ~~Department of~~
31 ~~Education~~ Division of Elementary and Secondary Education as participating in
32 the special assistance certification and reimbursement alternative
33 implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

34
35 SECTION 1462. Arkansas Code § 6-17-811(c)(2), concerning incentives
36 for teacher recruitment and retention in high-priority districts, is amended

1 to read as follows:

2 (2) The superintendent of the high-priority district where the
3 teacher is employed shall certify in writing to the ~~department~~ division that
4 the teacher has completed all contractual obligations for the school year.

5

6 SECTION 1463. The introductory language of Arkansas Code § 6-17-
7 811(d), concerning incentives for teacher recruitment and retention in high-
8 priority districts, is amended to read as follows:

9 (d) The ~~department~~ division shall:

10

11 SECTION 1464. Arkansas Code § 6-17-811(e)(2), concerning incentives
12 for teacher recruitment and retention in high-priority districts, is amended
13 to read as follows:

14 (2) If the funds appropriated and available for the payment of
15 the bonuses under this section are insufficient to pay the maximum bonus
16 amounts to each qualifying teacher, the ~~department~~ division shall distribute
17 the available funding to qualified teachers on a pro rata basis.

18

19 SECTION 1465. Arkansas Code § 6-17-812(a)(4), concerning compensation
20 for teaching more than the maximum number of students, is amended to read as
21 follows:

22 (4)(A) Except when a teacher teaches a course that lends itself
23 to large group instruction, as defined by the ~~Department of Education~~
24 Division of Elementary and Secondary Education, the maximum number of
25 students a teacher in grades five through twelve (5-12) is permitted to teach
26 without receiving additional compensation under this section shall not exceed
27 one hundred fifty (150) students per day.

28 (B) The ~~department~~ division shall include in the Standards
29 for Accreditation of Arkansas Public Schools and School Districts the maximum
30 number of students under subdivision (a)(4)(A) of this section.

31

32 SECTION 1466. Arkansas Code § 6-17-812(e), concerning compensation for
33 teaching more than the maximum number of students, is amended to read as
34 follows:

35 (e)(1) The ~~department~~ division shall promulgate rules to implement
36 this section.

1 (2) The rules promulgated by the ~~department~~ division shall
2 include without limitation the manner in which students in grades five (5)
3 and six (6) are to be counted for the purposes of this section.
4

5 SECTION 1467. Arkansas Code § 6-17-907(f), concerning school district
6 funds, is amended to read as follows:

7 (f) The county treasurer shall credit all the various federal funds to
8 the consolidated federal grants fund unless otherwise specifically designated
9 by the ~~Department of Education~~ Division of Elementary and Secondary
10 Education.

11
12 SECTION 1468. Arkansas Code § 6-17-907(k), concerning school district
13 funds, is amended to read as follows:

14 (k) The county treasurer may request representatives of Arkansas
15 Legislative Audit or ~~of the department~~ Division of Elementary and Secondary
16 Education to assist in establishing and crediting the various percentages of
17 revenue to the respective funds.
18

19 SECTION 1469. Arkansas Code § 6-17-907(m)(1), concerning school
20 district funds, is amended to read as follows:

21 (m)(1) If a school district uses a computerized accounting system that
22 properly segregates revenues and disbursements by type and fund in accordance
23 with state law and Arkansas Legislative Audit requirements, the school
24 district may request that the county treasurer, serving as school district
25 treasurer, receive and disburse all funds from one (1) operating account.
26

27 SECTION 1470. Arkansas Code § 6-17-913(b), concerning audits of school
28 districts accounts, is amended to read as follows:

29 (b) Where audits are made by a certified public accountant, a
30 certified copy of the audit shall be distributed to the school district, the
31 Department of Finance and Administration, the ~~Department~~ Division of Career
32 and Technical Education, and the ~~Department of Education~~ Division of
33 Elementary and Secondary Education.

34
35 SECTION 1471. Arkansas Code § 6-17-919(b), concerning void warrants
36 unless a valid license and contract exist, is amended to read as follows:

1 (b)(1) The school district superintendent and the superintendent's
2 surety shall be liable for any warrants that he or she countersigns in
3 payment of teachers' salaries unless and until the state board has issued a
4 valid license or the ~~Department of Education~~ Division of Elementary and
5 Secondary Education has provided the documentation required by subdivision
6 (a)(1)(B) of this section.

7 (2) An online copy that is accessible on a website designated by
8 the ~~department~~ division is sufficient evidence of the issuance of a valid
9 license or the documentation required by subdivision (a)(1)(B) of this
10 section.

11
12 SECTION 1472. The introductory language of Arkansas Code § 6-17-
13 1113(a)(1), concerning the School Worker Defense Program, is amended to read
14 as follows:

15 (a)(1) The ~~Department of Education~~ Division of Elementary and
16 Secondary Education shall establish a School Worker Defense Program for the
17 protection under subdivision (a)(2) of this section of:

18
19 SECTION 1473. Arkansas Code § 6-17-1113(c)(2), concerning the School
20 Worker Defense Program, is amended to read as follows:

21 (2) Any school districts previously covered by or moneys
22 expended pursuant to the self-insurance program of the ~~department~~ division or
23 the School Worker Defense Program shall be deemed a proper expenditure of
24 state funds.

25
26 SECTION 1474. Arkansas Code § 6-17-1113(e), concerning the School
27 Worker Defense Program, is amended to read as follows:

28 (e)(1) The defense fund and protection program authorized in this
29 section shall be a part of and administered by the ~~department~~ division.

30 (2) The ~~department~~ division shall adopt appropriate rules and
31 regulations necessary to carry out the purposes of this section.

32
33 SECTION 1475. Arkansas Code § 6-17-1113(f), concerning the School
34 Worker Defense Program, is amended to read as follows:

35 (f) Any person entitled to payment under the program may appeal the
36 decision of the ~~department~~ division to the advisory board.

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SECTION 1476. The introductory language of Arkansas Code § 6-17-1114 is amended to read as follows:

It is the duty of the State and Public School Life and Health Insurance Board, the Supervisor of the Public School Employees Insurance Section and the insurance section employees, the ~~Department of Education~~ Division of Elementary and Secondary Education, and each public school district and their officers and employees:

SECTION 1477. Arkansas Code § 6-17-1117(b), concerning health insurance provided by the school district, is amended to read as follows:

(b)(1)(A) The ~~Department of Education~~ Division of Elementary and Secondary Education shall pay the Employee Benefits Division ~~of the Department of Finance and Administration~~ a minimum of sixty-one dollars (\$61.00) per month for each eligible employee electing to participate in the public school employees' health insurance program administered by the State and Public School Life and Health Insurance Board.

(B) The ~~Department of Education~~ Division of Elementary and Secondary Education shall make the total contributions under subdivision (b)(1)(A) of this section by transferring fifty-five million dollars (\$55,000,000) to the ~~division~~ Employee Benefits Division in twelve (12) equal monthly installments.

(2) The funds provided to the ~~division~~ Employee Benefits Division under this subsection shall be administered by the board for the benefit of the employee participants of the public school employees' health insurance program.

(3)(A) In the event that appropriation or funding is not provided, the ~~Department of Education~~ Division of Elementary and Secondary Education shall not be responsible for the increased payments for the public school employees' health insurance program as established by this section.

(B) If funding and appropriation are provided but are inadequate for the total number of employees electing to participate in the public school employees' health insurance program, the ~~Department of Education~~ Division of Elementary and Secondary Education shall pay a proportional share on behalf of each participant.

(C) If funding and appropriation are provided and exceed

1 the amount needed to make the minimum contribution under subdivision
2 (b)(1)(A) of this section, the ~~Department of Education~~ Division of Elementary
3 and Secondary Education shall pay a proportional share of the excess on
4 behalf of each participant.

5
6 SECTION 1478. Arkansas Code § 6-17-1118(a)(6) and (7), concerning the
7 creation of the School Worker Defense Program Advisory Board, are amended to
8 read as follows:

9 (6) The ~~Director~~ Secretary of the Department of Finance and
10 Administration or his or her designee; and

11 (7)(A) The Commissioner of Elementary and Secondary Education or
12 his or her designee.

13 (B) Provided, however, no employee of the ~~Department of~~
14 ~~Education~~ Division of Elementary and Secondary Education who is charged with
15 administering the defense fund and protection program shall be eligible to
16 serve as the designee of the commissioner.

17
18 SECTION 1479. Arkansas Code § 6-17-1118(e), concerning the creation of
19 the School Worker Defense Program Advisory Board, is amended to read as
20 follows:

21 (e)(1) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education may promulgate rules and regulations as necessary for the
23 proper administration of this section to establish an advisory board.

24 (2) The ~~Department of Education~~ Division of Elementary and
25 Secondary Education shall provide support staff for the advisory board.

26
27 SECTION 1480. Arkansas Code § 6-17-1405 is amended to read as follows:
28 6-17-1405. Notification of award – Transfer of available federal
29 funds.

30 (a) Upon making any award to or in behalf of an employee of any school
31 district, the Workers' Compensation Commission shall notify the appropriate
32 officer of the school district and shall notify the ~~Department of Education~~
33 Division of Elementary and Secondary Education.

34 (b) If the salary or compensation of the employee in whose behalf the
35 award was made is paid wholly or partly from federal funds, the ~~department~~
36 division is authorized to transfer funds from the federal funds available for

1 the program under which such employee was paid to the Public School Fund to
2 reimburse the Public School Fund for funds transferred to the Workers'
3 Compensation Revolving Fund as provided for in this subchapter.
4

5 SECTION 1481. The introductory language of Arkansas Code § 6-17-
6 1602(e)(1), concerning the creation of the Master School Principal Program,
7 is amended to read as follows:

8 (e)(1) The ~~Department of Education~~ Division of Elementary and
9 Secondary Education and the academy shall:
10

11 SECTION 1482. Arkansas Code § 6-17-1603 is amended to read as follows
12 6-17-1603. Yearly incentive bonus.

13 (a) The ~~Department of Education~~ Division of Elementary and Secondary
14 Education shall promulgate rules and regulations for the nine thousand dollar
15 (\$9,000) yearly incentive bonus provided under this section for principals
16 receiving master school principal status.

17 (b) The ~~department~~ division shall pay a yearly incentive bonus of nine
18 thousand dollars (\$9,000) for every school year for no more than five (5)
19 years to any building-level principal who:

20 (1) Receives a master school principal designation from the
21 Arkansas Leadership Academy; and

22 (2) At the time of receiving the bonus, is employed full time as
23 a building-level principal in an Arkansas public school district.
24

25 SECTION 1483. The introductory language of Arkansas Code § 6-17-
26 1604(b)(1), concerning high-need school salary bonus and hold-back longevity,
27 is amended to read as follows:

28 (b)(1) The ~~Department of Education~~ Division of Elementary and
29 Secondary Education shall pay a high-need school salary bonus of twenty-five
30 thousand dollars (\$25,000) for every school year for no more than five (5)
31 years to any building-level principal who:
32

33 SECTION 1484. Arkansas Code § 6-17-1702(1), concerning the definition
34 of "employee" under the Public School Employee Fair Hearing Act, is amended
35 to read as follows:

36 (1) "Employee" means any person employed by a school district

1 under a written annual contract who is not required to have an educator
2 license issued by the ~~Department of Education~~ Division of Elementary and
3 Secondary Education as a condition of employment;

4
5 SECTION 1485. Arkansas Code § 6-17-1901(d), concerning the minority
6 teacher and administrator recruitment plan, is amended to read as follows:

7 (d) The plan shall be a part of the equity assistance plan filed
8 annually with the Equity Assistance Center of the ~~Department of Education~~
9 Division of Elementary and Secondary Education and shall be updated annually
10 for an additional ten (10) years.

11
12 SECTION 1486. Arkansas Code § 6-17-1902(a), concerning the Equity
13 Assistance Center and the coordination and contents plan, is amended to read
14 as follows:

15 (a) The Equity Assistance Center of the ~~Department of Education~~
16 Division of Elementary and Secondary Education shall provide technical
17 assistance to the school districts in developing recruitment plans.

18
19 SECTION 1487. Arkansas Code § 6-17-2205(2), concerning paid breaks for
20 certain classified school district employees, is amended to read as follows:

21 (2) Each school district shall file an affidavit for compliance
22 with the ~~Department of Education~~ Division of Elementary and Secondary
23 Education regarding the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.,
24 for classified employees unless the school district policies or state laws
25 impose higher standards.

26
27 SECTION 1488. Arkansas Code § 6-17-2206(a)(1), concerning highly
28 qualified paraprofessional bonuses provided by the Department of Education,
29 is amended to read as follows:

30 (a)(1) The purpose of this section is to provide a bonus from the
31 ~~Department of Education~~ Division of Elementary and Secondary Education in
32 recognition of the efforts made by paraprofessional employees who attain
33 highly qualified status.

34
35 SECTION 1489. Arkansas Code § 6-17-2301(d)(2), concerning policy
36 requirements for each school district, is amended to read as follows:

1 (2) By September 15 of each year, a school district shall
2 provide the ~~Department of Education~~ Division of Elementary and Secondary
3 Education with the website address at which its current personnel policies
4 for classified employees, including the salary schedule, may be found.

5
6 SECTION 1490. Arkansas Code § 6-17-2301(e), concerning policy
7 requirements for each school district, is amended to read as follows:

8 (e) The ~~department~~ division shall notify any school district that has
9 not posted its policies on the school district website or provided the
10 ~~department~~ division with the website address in accordance with this section.

11
12 SECTION 1491. Arkansas Code § 6-17-2302(b)(1), concerning the
13 definition of "classified employee" under the Personnel Policy Law for
14 Classified Employees, is amended to read as follows:

15 (1) "Classified employee" means any person employed by a school
16 district under a written annual contract who is not required to have a
17 teaching license issued by the ~~Department of Education~~ Division of Elementary
18 and Secondary Education as a condition of employment;

19
20 SECTION 1492. Arkansas Code § 6-17-2402(3)(A), concerning the Teacher
21 Compensation Program, is amended to read as follows:

22 (A) An individual who is required to hold a teaching
23 license from the ~~Department of Education~~ Division of Elementary and Secondary
24 Education and who is engaged directly in instruction with students in a
25 classroom setting for more than seventy percent (70%) of the individual's
26 contracted time;

27
28 SECTION 1493. Arkansas Code § 6-17-2403(c)(1)(A), concerning minimum
29 teacher compensation schedules, is amended to read as follows:

30 (A) Public school accredited by the ~~Department of~~
31 Education Division of Elementary and Secondary Education or a nationally
32 recognized accrediting association;

33
34 SECTION 1494. Arkansas Cod-e § 6-17-2403(d)(2), concerning minimum
35 teacher compensation schedules, is amended to read as follows:

36 (2) The minimum teacher compensation schedule for a part-time

1 teacher or part-time paraprofessional employed by a school district to work
2 in an adult education program shall be established by the Adult Education
3 Section of the ~~Department of Career Education~~ Division of Workforce Services
4 and approved by the ~~Career Education and Workforce Development Board~~ Director
5 of the Division of Workforce Services.

6
7 SECTION 1495. Arkansas Code § 6-17-2406(c), concerning the
8 applicability of teacher salary schedules and low income status, is amended
9 to read as follows:

10 (c) The Civilian Student Training Program or the Arkansas National
11 Guard Youth Challenge Program may be designated by the ~~Department of~~
12 ~~Education~~ Division of Elementary and Secondary Education as a low-income
13 school, and receive the benefits of such designation if the Civilian Student
14 Training Program or the Arkansas National Guard Youth Challenge Program meets
15 the low-income school criteria.

16
17 SECTION 1496. Arkansas Code § 6-17-2502(2), concerning the definition
18 of "in residence" under the Arkansas Teacher of the Year Act, is amended to
19 read as follows:

20 (2) "In residence" means working exclusively with the ~~Department~~
21 ~~of Education~~ Division of Elementary and Secondary Education at a location
22 agreed upon between the ~~department~~ division and the Arkansas Teacher of the
23 Year;

24
25 SECTION 1497. Arkansas Code § 6-17-2503(a)(1), concerning the Arkansas
26 Teacher of the Year Program, is amended to read as follows:

27 (a)(1) The ~~Department of Education~~ Division of Elementary and
28 Secondary Education shall develop a process for selecting the Arkansas
29 Teacher of the Year.

30
31 SECTION 1498. The introductory language of Arkansas Code § 6-17-
32 2503(e)(1), concerning the Arkansas Teacher of the Year Program, is amended
33 to read as follows:

34 (1) Work in residence with the ~~department~~ division to:

35
36 SECTION 1499. Arkansas Code § 6-17-2503(f), concerning the Arkansas

1 Teacher of the Year Program, is amended to read as follows:

2 (f) During the school year in which a school district's Arkansas
3 Teacher of the Year is on paid administrative leave, the ~~department~~ division
4 shall reimburse the school district as provided in § 6-17-2505.

5

6 SECTION 1500. Arkansas Code § 6-17-2505 is amended to read as follows:

7 6-17-2505. ~~Department of Education~~ Division of Elementary and
8 Secondary Education responsibility.

9 (a) During the school year in which a school district's Arkansas
10 Teacher of the Year is on paid administrative leave, the ~~Department of~~
11 ~~Education~~ Division of Elementary and Secondary Education shall reimburse the
12 school district for:

13 (1) The teacher's salary and benefits; and

14 (2)(A) Incidental expenses incurred by the teacher as a result
15 of his or her participation in the Arkansas Teacher of the Year Program.

16 (B) All incidental expenses shall be approved by the
17 ~~department~~ division.

18 (b) The ~~department~~ division shall be responsible for the reimbursement
19 of any incidental expenses incurred by the teacher during the implementation
20 of the program for the current year.

21 (c) The ~~department~~ division may receive private donations, grants, or
22 other forms of assistance to help fund any aspect of the program.

23 (d) The State Board of Education shall promulgate rules as necessary
24 to administer the provisions of this section.

25

26 SECTION 1501. Arkansas Code § 6-17-2602(1)(D), concerning the lifetime
27 teaching license, is amended to read as follows:

28 (D) The ~~Department of Education~~ Division of Elementary and
29 Secondary Education;

30

31 SECTION 1502. Arkansas Code § 6-17-2604(a), concerning the lifetime
32 teaching license, is amended to read as follows:

33 (a) A person who meets the eligibility requirements of § 6-17-2603 may
34 apply for a lifetime teaching license by filing an application with the
35 ~~Department of Education~~ Division of Elementary and Secondary Education.

36

1 SECTION 1503. Arkansas Code § 6-17-2606 is amended to read as follows:
2 6-17-2606. Rules – Reports.

3 The ~~Department of Education~~ Division of Elementary and Secondary
4 Education shall:

5 (1) Develop rules to implement the provisions of this
6 subchapter; and

7 (2) Report annually to the General Assembly regarding compliance
8 with each item set forth in this subchapter.

9
10 SECTION 1504. Arkansas Code § 6-17-2702(a), concerning the
11 determination of eligibility for teachers to receive a supplemental grant
12 from the Science, Technology, Engineering, and Math Fund, is amended to read
13 as follows:

14 (a) The Arkansas Economic Development Commission, in coordination with
15 the ~~Department of Education~~ Division of Elementary and Secondary Education,
16 shall promulgate rules governing the eligibility of teachers of science,
17 technology, engineering, or math to receive a supplemental grant from the
18 Science, Technology, Engineering, and Math Fund.

19
20 SECTION 1505. Arkansas Code § 6-17-2703(b), concerning the application
21 process for the Science, Technology, Engineering, and Math Fund, is amended
22 to read as follows:

23 (b) Selection and identification of qualified science, technology,
24 engineering, and math teachers shall be coordinated with the ~~Department of~~
25 ~~Education~~ Division of Elementary and Secondary Education for identification
26 of qualified science, technology, engineering, and math teachers.

27
28 SECTION 1506. Arkansas Code § 6-17-2703(f), concerning the application
29 process for the Science, Technology, Engineering, and Math Fund, is amended
30 to read as follows:

31 (f) The commission shall review the applications in accordance with
32 rules promulgated by the commission in coordination with the ~~department~~
33 division to determine if the applicant qualifies for a supplemental grant
34 from the fund.

35
36 SECTION 1507. Arkansas Code § 6-17-2804(b)(10)(B), concerning the

1 administrative agency responsibilities of the Teacher Excellence and Support
2 System, is amended to read as follows:

3 (B) The raw data reported to and collected by the
4 ~~Department of Education~~ Division of Elementary and Secondary Education for
5 the purposes of this section, including all or part of the raw data that the
6 ~~department~~ division provides to an expert outside the ~~department~~ division for
7 analysis, is exempt from disclosure under the Freedom of Information Act of
8 1967, § 25-19-101 et seq.

9

10 SECTION 1508. Arkansas Code § 6-17-2809(a), concerning the system of
11 administrator leadership support and evaluations, is amended to read as
12 follows:

13 (a)(1) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education shall design a system of administrator leadership support
15 and evaluations that:

16 (A) Is aligned to current leadership standards adopted by
17 the State Board of Education;

18 (B) Uses multi-tiered systems of professional support and
19 learning for what a leader should know and be able to do; and

20 (C) Provides a research-based framework to conduct
21 administrator evaluations.

22 (2) The ~~department~~ division may collaborate with state and
23 national school leadership organizations and institutions of higher education
24 with school leadership preparation programs to develop the system.

25

26 SECTION 1509. Arkansas Code § 6-18-102(f), concerning legislative
27 findings regarding school uniform policy, is amended to read as follows:

28 (f) The ~~Department of Education~~ Division of Elementary and Secondary
29 Education and education service cooperatives shall, when possible, assist
30 public schools by providing information regarding uniform dress codes upon
31 request from public school administrators.

32

33 SECTION 1510. Arkansas Code § 6-18-103(c), concerning selective
34 service registration, is amended to read as follows:

35 (c) The ~~Department of Education~~ Division of Elementary and Secondary
36 Education shall issue rules and regulations to ensure compliance with the

1 provisions of this section.

2

3 SECTION 1511. Arkansas Code § 6-18-105 is amended to read as follows:

4 6-18-105. Skills and knowledge for preparation of kindergarten
5 children.

6 (a)(1) ~~By December 31, 2003, the~~ The Department of Education shall
7 determine and prepare a list of the skills and knowledge that a child should
8 have in order to be prepared to enter kindergarten.

9 (2) The list shall be prepared in a manner that will assist
10 parents in preparing their children for kindergarten.

11 (b)(1) The list shall be available to parents on the ~~Department of~~
12 ~~Education's~~ Division of Elementary and Secondary Education's website and from
13 the ~~Department of Education~~ Division of Elementary and Secondary Education by
14 mail if requested.

15 (2) The ~~Department of Education~~ Division of Elementary and
16 Secondary Education shall make reasonable efforts to have the list of skills
17 published in the Happy Birthday Baby Book.

18 (c)(1) The Department of Human Services shall provide copies of the
19 list to child care facilities licensed by the Division of Child Care and
20 Early Childhood Education.

21 (2) ~~By December 31, 2003, the~~ The Department of Human Services
22 shall adopt rules and regulations requiring child care facilities licensed by
23 the ~~division~~ Division of Child Care and Early Childhood Education each year
24 to distribute the list to the parent of each three-year-old child, four-year-
25 old child, and five-year-old child attending the child care facility.

26 (d) Nothing in this section shall be construed to require a child to
27 have a certain level of skill or knowledge before enrolling in kindergarten.

28

29 SECTION 1512. The introductory language of Arkansas Code § 6-18-
30 107(b), concerning the enrollment of military dependents in school, is
31 amended to read as follows:

32 (b) The ~~Department of Education~~ Division of Elementary and Secondary
33 Education shall require a public school to report the enrollment of a student
34 who is a military dependent:

35

36 SECTION 1513. Arkansas Code § 6-18-109(a)(1)(B), concerning the

1 Student Online Personal Information Protection Act, is amended to read as
2 follows:

3 (B) Created or provided by an employee or agent of a
4 public school, school district, local education agency, or ~~Department of~~
5 ~~Education~~ the Division of Elementary and Secondary Education to the operator
6 for public school purposes; or

7

8 SECTION 1514. Arkansas Code § 6-18-109(a)(2)(B), concerning the
9 Student Online Personal Information Protection Act, is amended to read as
10 follows:

11 (B) An operator does not include the ~~Department of~~
12 ~~Education~~ Division of Elementary and Secondary Education, a school district,
13 or an open-enrollment public charter school;

14

15 SECTION 1515. Arkansas Code § 6-18-109(f)(2)(B), concerning the
16 Student Online Personal Information Act, is amended to read as follows:

17 (B) As allowed by federal or state law and under the
18 direction of a school, school district, or the ~~department~~ division if no
19 covered information is used for advertising or to compile a profile of a
20 public school student; or

21

22 SECTION 1516. Arkansas Code § 6-18-202(e)(5)(B), concerning age and
23 residence for attending public schools, is amended to read as follows:

24 (B) The appeal shall be made to the ~~Department of~~
25 ~~Education~~ Division of Elementary and Secondary Education.

26

27 SECTION 1517. Arkansas Code § 6-18-202(e)(6)(A) and (B), concerning
28 age and residence for attending public schools, are amended to read as
29 follows:

30 (6)(A) The ~~department~~ division shall promulgate rules to
31 establish the procedure for a ~~department~~ division hearing officer to
32 investigate the appeal and conduct a hearing.

33 (B) The ~~department~~ division hearing officer may compel
34 disclosure of information from both of the school districts in his or her
35 duties.

36

1 SECTION 1518. Arkansas Code § 6-18-204(b)(5)(B), concerning school
2 attendance in another school district and conditions, is amended to read as
3 follows:

4 (B) The amount of tuition shall be agreed upon by both
5 districts before enrollment in the receiving district, except that if an
6 agreement cannot be reached by the opening date of the receiving school, an
7 appeal shall be made to the Assistant Director for Public School Finance and
8 Administrative Support of the ~~Department of Education~~ Division of Elementary
9 and Secondary Education within thirty (30) days from the opening date of
10 school, and his or her decision shall be final.

11
12 SECTION 1519. Arkansas Code § 6-18-205(b)(1)(B)(i), concerning school
13 attendance in another school district and liability, is amended to read as
14 follows:

15 (B)(i) Either school district may petition the ~~Department~~
16 ~~of Education~~ Division of Elementary and Secondary Education to satisfy the
17 liability by transferring that amount to the entitled school district from
18 funds which the ~~department~~ division would have distributed to the liable
19 school district.

20
21 SECTION 1520. Arkansas Code § 6-18-208(a), concerning requirements for
22 enrollment in public school and exceptions, is amended to read as follows:

23 (a) Before a child's admission to an Arkansas public school, a school
24 district shall request the parent, guardian, or other responsible person to
25 furnish the child's Social Security number and shall inform the parent,
26 guardian, or other responsible person that, in the alternative, they may
27 request that the school district assign the child a nine-digit number
28 designated by the ~~Department of Education~~ Division of Elementary and
29 Secondary Education.

30
31 SECTION 1521. Arkansas Code § 6-18-208(d)(2), concerning requirements
32 for enrollment in public school and exceptions, is amended to read as
33 follows:

34 (2) This section shall not apply to educational records that are
35 transferred to or between the ~~department~~ division, other public schools or
36 school districts, or other governmental agencies as allowed or required by

1 federal law, state law, or State Board of Education rule.

2

3 SECTION 1522. Arkansas Code § 6-18-213(a)(1), concerning school
4 attendance records and reports, is amended to read as follows:

5 (a)(1) A record of pupil attendance shall be kept by each school
6 district of the state in a format prescribed by the ~~Department of Education~~
7 Division of Elementary and Secondary Education.

8

9 SECTION 1523. Arkansas Code § 6-18-215(c) and (d), concerning a school
10 enrollment census and determining student dropout rates, are amended to read
11 as follows:

12 (c) The graduation rates, as defined by the ~~Department of Education~~
13 Division of Elementary and Secondary Education, shall be tracked for students
14 in grades nine through twelve (9-12).

15 (d) The ~~department~~ division shall use this section for in-state
16 reporting purposes related to school dropout rates.

17

18 SECTION 1524. Arkansas Code § 6-18-227(b)(1)(B), concerning the
19 Arkansas Opportunity Public School Choice Act of 2004, is amended to read as
20 follows:

21 (B) The parent, guardian, or the student, if the student
22 is over eighteen (18) years of age, has notified the ~~Department of Education~~
23 Division of Elementary and Secondary Education and both the sending and
24 receiving school districts of the request for a transfer no later than July
25 30 of the first year in which the student intends to transfer.

26

27 SECTION 1525. Arkansas Code § 6-18-227(b)(2)(B), concerning the
28 Arkansas Opportunity Public School Choice Act of 2004, is amended to read as
29 follows:

30 (B) Application for the opportunity public school choice
31 option shall be provided by the ~~department~~ division, shall contain a notice
32 that a transfer under this subsection shall operate as an irrevocable choice
33 for at least one (1) entire school year, and shall remain in force until the
34 student completes high school as provided in this subsection except as
35 otherwise provided by law.

36

1 SECTION 1526. Arkansas Code § 6-18-227(d)(4), concerning the Arkansas
2 Opportunity Public School Choice Act of 2004, is amended to read as follows:

3 (4) The ~~department~~ division shall promulgate rules governing the
4 use of school capacity as a basis for denying admission under this section.

5
6 SECTION 1527. Arkansas Code § 6-18-227(f), concerning the Arkansas
7 Opportunity Public School Choice Act of 2004, is amended to read as follows:

8 (f) The ~~department~~ division shall develop an annual report on the
9 status of school choice and deliver the report to the state board, the
10 Governor, and the Legislative Council at least ninety (90) days before the
11 convening of the regular session of the General Assembly.

12
13 SECTION 1528. Arkansas Code § 6-18-227(j)(1)-(3), concerning the
14 Arkansas Opportunity Public School Choice Act of 2004, are amended to read as
15 follows:

16 (j)(1) All school districts shall report to the ~~department~~ division on
17 an annual basis the race, gender, and other pertinent information needed to
18 properly monitor compliance with the provisions of this section.

19 (2) The reports may be on those forms that are prescribed by the
20 ~~department~~ division, or the data may be submitted electronically by the
21 district using a format authorized by the ~~department~~ division.

22 (3) The ~~department~~ division may put on probation the
23 superintendent of any school district that fails to file its report each year
24 or fails to file any other information with a published deadline requested
25 from school districts by the ~~department~~ division so long as thirty (30)
26 calendar days are given between the request for the information and the
27 published deadline.

28 (4) A copy of the report shall be provided to the House
29 Committee on Education and the Senate Committee on Education.

30
31 SECTION 1529. Arkansas Code § 6-18-230(b)(2)(B), concerning the
32 minimum age for enrolling in prekindergarten, is amended to read as follows:

33 (B) ~~Department of Education~~ Division of Elementary and
34 Secondary Education.

35
36 SECTION 1530. Arkansas Code § 6-18-233(c)(2)(B), concerning school

1 choices for children in foster care, is amended to read as follows:

2 (B) If a public school district claims a conflict under
3 subdivision (c)(2)(A) of this section, the public school district shall
4 immediately submit proof from a federal court to the ~~Department of Education~~
5 Division of Elementary and Secondary Education that the public school
6 district has a genuine conflict under an active desegregation order or active
7 court-approved desegregation plan with the provisions of this section.

8
9 SECTION 1531. Arkansas Code § 6-18-233(d)(1)(A), concerning school
10 choices for children in foster care, is amended to read as follows:

11 (A) Made on a form approved by the ~~Department of Education~~
12 Division of Elementary and Secondary Education; and

13
14 SECTION 1532. Arkansas Code § 6-18-233(k), concerning school choices
15 for children in foster care, is amended to read as follows:

16 (k) The ~~Department of Education~~ Division of Elementary and Secondary
17 Education shall promulgate rules to implement this section.

18
19
20 SECTION 1533. Arkansas Code § 6-18-316(b) and (c), concerning the
21 transfer of a student on a petition, are amended to read as follows:

22 (b) Forms for use in transferring children from one (1) school
23 district to another shall be provided by the ~~Department of Education~~ Division
24 of Elementary and Secondary Education.

25 (c) After the petition has been approved by the board of directors of
26 the resident district and the board of directors of the receiving district,
27 copies of approved transfers shall be filed by the receiving district with
28 the office of the county clerk, with the administrative offices of the
29 respective school districts, and with the ~~department~~ division.

30
31 SECTION 1534. Arkansas Code § 6-18-317(b) and (c), concerning
32 prohibited student transfers, are amended to read as follows:

33 (b) Each form filed with the ~~Department of Education~~ Division of
34 Elementary and Secondary Education reporting a legal student transfer must be
35 accompanied by an affidavit signed by each member of both school district
36 boards of directors stating that the transfer does not violate the

1 prohibition set forth in subsection (a) of this section.

2 (c) If the transfer fails to comply with subsection (b) of this
3 section, the ~~department~~ division shall withhold from each district state aid
4 in an amount equal to that to be generated by the student in question in the
5 respective districts.

6
7 SECTION 1535. Arkansas Code § 6-18-319(c), concerning proper contacts
8 of a transfer student, is amended to read as follows:

9 (c) A school district from which the student transferred has the right
10 to appeal the transfer of the student to the ~~Department of Education~~ Division
11 of Elementary and Secondary Education. The school district to which the
12 student transferred and the parents or guardian of the student shall have the
13 burden to prove the transfer was proper.

14
15 SECTION 1536. Arkansas Code § 6-18-502(a), concerning the guidelines
16 for development of school district student discipline polices, is amended to
17 read as follows:

18 (a) The ~~Department of Education~~ Division of Elementary and Secondary
19 Education shall establish guidelines for the development of school district
20 student discipline policies.

21
22 SECTION 1537. Arkansas Code § 6-18-502(h), concerning the guidelines
23 for development of school district student discipline polices, is amended to
24 read as follows:

25 (h) In developing the state guidelines for school district discipline
26 policies, the ~~department~~ division shall involve parents, students, teachers,
27 and administrators.

28
29 SECTION 1538. Arkansas Code § 6-18-503(a)(1)(A), concerning the
30 requirement of written student discipline policies, is amended to read as
31 follows:

32 (a)(1)(A) Each school district in this state shall develop written
33 student discipline policies in compliance with the guidelines established by
34 the ~~Department of Education~~ Division of Elementary and Secondary Education
35 and shall file such policies with the ~~department~~ division.

36

1 SECTION 1539. Arkansas Code § 6-18-503(d) and (e), concerning the
2 requirement of written student discipline policies, are amended to read as
3 follows:

4 (d) Any amendments or revisions to a school district's student
5 discipline policies shall be developed and adopted in the same manner as the
6 original policies required by § 6-18-502 and shall be consistent with the
7 guidelines established by the ~~department~~ division.

8 (e) Any amendment or revision to the student discipline policies
9 adopted by a school district shall be submitted to the ~~department~~ division
10 within thirty (30) days after the adoption of such amendment or revision.

11
12 SECTION 1540. Arkansas Code § 6-18-504(a) and (b), concerning
13 compliance with §§ 6-18-502 and 6-18-503, is amended to read as follows:

14 6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

15 (a) The ~~Department of Education~~ Division of Elementary and Secondary
16 Education shall monitor compliance with the requirements of §§ 6-18-502 and
17 6-18-503, and the State Board of Education shall adopt rules and regulations
18 for the administration of the requirements thereof.

19 (b) Any school district failing to file the disciplinary policy
20 required by § 6-18-503 with the ~~department~~ division shall have all state aid
21 funds withheld until such disciplinary policy is filed with the ~~department~~
22 division.

23
24 SECTION 1541. Arkansas Code § 6-18-506(b), concerning the School
25 Dismissal Act, is amended to read as follows:

26 (b) Every school district board of directors shall adopt and file with
27 the ~~Department of Education~~ Division of Elementary and Secondary Education
28 written policies concerning the violation of school standards such as
29 disrespect for teachers and classified school employees, vandalism, and other
30 undesirable behavioral patterns.

31
32 SECTION 1542. Arkansas Code § 6-18-506(e), concerning the School
33 Dismissal Act, is amended to read as follows:

34 (e) The policy may be revised at any time by filing an updated policy
35 with the ~~department~~ division.

36

1 SECTION 1543. Arkansas Code § 6-18-507(a)(3), concerning the
2 suspension or expulsion of a student, is amended to read as follows:

3 (3) "Nontraditional scheduling" means block or other alternative
4 scheduling as defined by the ~~Department of Education~~ Division of Elementary
5 and Secondary Education; and

6
7 SECTION 1544. Arkansas Code § 6-18-507(e)(3)(B), concerning the
8 suspension or expulsion of a student, is amended to read as follows:

9 (B) The principal of each school shall report within a week to
10 the ~~department~~ division the name, current address, and Social Security number
11 of any student who is expelled for possessing a firearm or other prohibited
12 weapon on school property or for committing other acts of violence.

13
14 SECTION 1545. Arkansas Code § 6-18-507(e)(4)(A), concerning the
15 suspension or expulsion of a student, is amended to read as follows:

16 (4)(A) The ~~department~~ division shall establish and maintain a
17 registry of students who are expelled for possessing a firearm or other
18 prohibited weapon on school property or for committing other acts of
19 violence.

20
21 SECTION 1546. The introductory language of Arkansas Code § 6-18-
22 511(d)(1), concerning the removal of a student from class, is amended to read
23 as follows:

24 (d)(1) If a teacher removes a student from class two (2) times during
25 any nine-week grading period or its equivalent as determined by the
26 ~~Department of Education~~ Division of Elementary and Secondary Education, the
27 principal or the principal's designee may not return the student to the
28 teacher's class unless a conference is held for the purpose of determining
29 the causes of the problem and possible solutions, with the following
30 individuals present:

31
32 SECTION 1547. Arkansas Code § 6-18-514(i), concerning antibullying
33 policies, is amended to read as follows:

34 (i) The school district shall provide the ~~Department of Education~~
35 Division of Elementary and Secondary Education with the website address at
36 which a copy of the policies adopted in compliance with this section may be

1 found.

2

3 SECTION 1548. The introductory language of Arkansas Code § 6-18-
4 516(b)(1), concerning effective school discipline, is amended to read as
5 follows:

6 (b)(1) Annually, the ~~Department of Education~~ Division of Elementary
7 and Secondary Education shall report at the school, school district, and
8 state level the following data concerning exclusionary disciplinary actions,
9 in-school suspensions, and corporal punishment:

10

11 SECTION 1549. The introductory language of Arkansas Code § 6-18-
12 516(b)(2), concerning effective school discipline, is amended to read as
13 follows:

14 (2) The ~~department~~ division shall report exclusionary
15 disciplinary actions by both:

16

17 SECTION 1550. Arkansas Code § 6-18-516(c), concerning effective school
18 discipline, is amended to read as follows:

19 (c) The ~~department~~ division shall report the data required in
20 subsection (b) of this section:

21 (1) On the website of the ~~department~~ division to the extent that
22 publication is consistent with the Family Educational Rights and Privacy Act,
23 20 U.S.C. § 1232g; and

24 (2) In a manner that reflects historical trends and allows for
25 the comparison of schools and school districts.

26

27 SECTION 1551. The introductory language of Arkansas Code § 6-18-
28 516(d), concerning effective school discipline, is amended to read as
29 follows:

30 (d) The ~~department~~ division shall:

31

32 SECTION 1552. Arkansas Code § 6-18-516(e), concerning effective school
33 discipline, is amended to read as follows:

34 (e) The ~~department~~ division, or researcher identified by the
35 ~~department~~ division, shall provide an annual report to the State Board of
36 Education analyzing disciplinary infractions, disciplinary actions, and

1 disciplinary disparities existing throughout the state.

2
3 SECTION 1553. Arkansas Code § 6-18-705(c), concerning the school
4 breakfast program, is amended to read as follows:

5 (c) The ~~Department of Education~~ Division of Elementary and Secondary
6 Education may promulgate rules and regulations necessary for implementation
7 of this section in compliance with federal guidelines.

8
9 SECTION 1554. Arkansas Code § 6-18-705(d)(2), concerning the school
10 breakfast program, is amended to read as follows:

11 (2) In any high school under the requirements of this section,
12 if fifty percent (50%) or more of the eligible students refuse to participate
13 in the school breakfast program during any year of the program as
14 demonstrated by sufficient proof to the ~~department~~ division, the state board
15 may grant a waiver from the requirements of this section to the high school.

16
17 SECTION 1555. Arkansas Code § 6-18-705(e), concerning the school
18 breakfast program, is amended to read as follows:

19 (e) The ~~department~~ division is hereby authorized to withhold state
20 equalization aid from any school district that fails to comply with the
21 provisions of this section.

22
23 SECTION 1556. Arkansas Code § 6-18-707(c)(1), concerning a
24 prescription asthma inhaler or auto-injectable epinephrine, is amended to
25 read as follows:

26 (c)(1) The ~~Department of Education~~ Division of Elementary and
27 Secondary Education shall develop guidelines for use in school districts that
28 allow a student to carry and use an asthma inhaler or auto-injectable
29 epinephrine, or both, while in school, at an on-site school-sponsored
30 activity, or at an off-site school-sponsored activity.

31
32 SECTION 1557. Arkansas Code § 6-18-707(c)(2)(B)(iii), concerning a
33 prescription asthma inhaler or auto-injectable epinephrine, is amended to
34 read as follows:

35 (iii) A copy of an individualized healthcare plan
36 for the student prepared in accordance with § 6-18-1005 and any related rules

1 of the ~~department~~ division.

2

3 SECTION 1558. Arkansas Code § 6-18-709(a)(2), concerning the Public
4 School Health Services Advisory Committee, is amended to read as follows:

5 (2) The ~~Director~~ Secretary of the Department of Health shall
6 appoint:

7 (A) One (1) member to represent the Department of Health;

8 (B) One (1) member to represent the Arkansas State Board
9 of Nursing;

10 (C) One (1) member to represent the Arkansas Center for
11 Health Improvement;

12 (D) One (1) member to represent the Child and Adolescent
13 Health Section of the Department of Health; and

14 (E) One (1) member to represent the Office of Minority
15 Health and Health Disparities of the Department of Health.

16

17 SECTION 1559. The introductory language of Arkansas Code § 6-18-
18 709(a)(3), concerning the Public School Health Services Advisory Committee,
19 is amended to read as follows:

20 (3) The Commissioner of Elementary and Secondary Education shall
21 appoint:

22

23 SECTION 1560. The introductory language of Arkansas Code § 6-18-
24 709(a)(3)(A), concerning the Public School Health Services Advisory
25 Committee, is amended to read as follows:

26 (A) Six (6) members to represent the ~~Department of~~
27 Education Division of Elementary and Secondary Education as follows:

28

29 SECTION 1561. Arkansas Code § 6-18-709(a)(3)(G)(ii)(b), concerning the
30 Public School Health Services Advisory Committee, is amended to read as
31 follows:

32 (b) The ~~Department of Education~~ Division of
33 Elementary and Secondary Education; or

34

35 SECTION 1562. Arkansas Code § 6-18-709(a)(9), concerning the Public
36 School Health Services Advisory Committee, is amended to read as follows:

1 (9) The ~~Department of Education~~ Division of Elementary and
2 Secondary Education shall provide office space and staff for the Public
3 School Health Services Advisory Committee.
4

5 SECTION 1563. Arkansas Code § 6-18-709(f), concerning the Public
6 School Health Services Advisory Committee, is amended to read as follows:

7 (f)(1) The Public School Health Services Advisory Committee shall
8 identify the information it needs from public school districts and from
9 nurses employed by public school districts to conduct the study and
10 communicate those requests for information to the ~~Department of Education~~
11 Division of Elementary and Secondary Education in collaboration with the
12 Department of Health.

13 (2)(A) Each public school nurse or individual designated by the
14 public school shall report the information requested to the ~~Department of~~
15 ~~Education~~ Division of Elementary and Secondary Education and to the school
16 board of directors not less than yearly.

17 (B) A school shall continue to report the information
18 until the Public School Health Services Advisory Committee's term has
19 expired.

20 (3) The ~~Department of Education~~ Division of Elementary and
21 Secondary Education shall provide the information to the Public School Health
22 Services Advisory Committee in a manner that protects student privacy under
23 state and federal laws.
24

25 SECTION 1564. The introductory language of Arkansas Code § 6-18-
26 709(g), concerning the Public School Health Advisory Committee, is amended to
27 read as follows:

28 (g) Annually, beginning on July 1, 2015, a school district shall
29 report the following to the ~~Department of Education~~ Division of Elementary
30 and Secondary Education:
31

32 SECTION 1565. Arkansas Code § 6-18-712(a), concerning posting the
33 Child Abuse Hotline telephone number in public schools and open-enrollment
34 charter schools, is amended to read as follows:

35 (a) Each public school and open-enrollment charter school shall post a
36 sign that contains the toll-free telephone number for the Child Abuse Hotline

1 established by the Department of Human Services and the ~~Department~~ Division
2 of Arkansas State Police under § 12-18-301.

3
4 SECTION 1566. Arkansas Code § 6-18-712(d), concerning posting the
5 Child Abuse Hotline telephone number in public schools and open-enrollment
6 charter schools, is amended to read as follows:

7 (d)(1) The ~~Department of Education~~ Division of Elementary and
8 Secondary Education shall administer the requirements under this section.

9 (2) The ~~Department of Education~~ Division of Elementary and
10 Secondary Education may adopt rules in compliance with this section to carry
11 out the requirements under this section.

12
13 SECTION 1567. The introductory language of Arkansas Code § 6-18-
14 713(b), concerning student sudden cardiac arrest education, is amended to
15 read as follows:

16 (b) The ~~Department of Education~~ Division of Elementary and Secondary
17 Education shall develop guidelines and other relevant materials to inform and
18 educate school officials, teachers, athletic coaches, students, and parents
19 about the nature and warning signs of sudden cardiac arrest, including the
20 risks associated with continuing to participate in or practice an athletic
21 activity when experiencing any of the following symptoms:

22
23 SECTION 1568. Arkansas Code § 6-18-901(a), concerning the maintenance
24 of permanent student records, is amended to read as follows:

25 (a) The ~~Department of Education~~ Division of Elementary and Secondary
26 Education, at the direction of the State Board of Education and in
27 cooperation with any other appropriate state agencies, shall develop and
28 publish an itemized listing of all information to be maintained in a
29 student's permanent record during enrollment in a school district in this
30 state.

31
32 SECTION 1569. Arkansas Code § 6-18-901(d)(2), concerning the
33 maintenance of permanent student records, is amended to read as follows:

34 (2) Upon request by the Division of Youth Services of the
35 Department of Human Services, a copy of the education record, as defined by
36 regulations promulgated by the ~~Department of Education~~ Division of Elementary

1 and Secondary Education, shall be transmitted to the ~~division~~ Division of
2 Youth Services within ten (10) school days.

3
4 SECTION 1570. Arkansas Code § 6-18-1004(a)(2), concerning a school
5 district plan for student services, is amended to read as follows:

6 (2) Only those trained and certified in the appropriate
7 specialty or following a ~~Department of Education's~~ Division of Elementary and
8 Secondary Education's deficiency removal plan will be assigned to carry out
9 the duties of each service.

10
11 SECTION 1571. Arkansas Code § 6-18-1007 is amended to read as follows:
12 6-18-1007. School student services status report.

13 (a) By January 1, 1994, and each year thereafter, the ~~Department of~~
14 ~~Education~~ Division of Elementary and Secondary Education shall compile and
15 present to the Governor, the State Board of Education, the Senate Committee
16 on Education, and the House Committee on Education a report outlining
17 monitoring findings and the status of implementing each of the provisions of
18 this subchapter by the various school districts, including which districts
19 are in substantial compliance with the plan required under this subchapter.

20 (b)(1)(A) ~~By January 1, 1998, the department~~ The division shall have
21 in place a staffing structure which assures that the ~~department's~~ division's
22 administration and field service staff are responsible for monitoring the
23 ~~department~~ division and local school district implementation and compliance
24 with the provisions of this subchapter.

25 (B) The ~~department~~ division shall employ one (1) or more
26 persons who shall have a minimum qualification of certification as a school
27 counselor.

28 (2) Each school district shall be responsible for submitting an
29 annual report to the Assistant Commissioner of Learning Services of the
30 ~~Department of Education~~ Division of Elementary and Secondary Education
31 outlining its compliance with and implementation of plans for the provisions
32 of this section.

33 (3)(A) The Commissioner of Elementary and Secondary Education,
34 in consultation with the appropriate assistant commissioner, shall designate
35 an individual or individuals who shall have a minimum qualification of
36 certification as a school counselor to be responsible for coordinating the

1 monitoring of compliance with this section.

2 (B) The monitoring shall include interviews with
3 administrators, counselors, students, and teachers.

4
5 SECTION 1572. Arkansas Code § 6-18-1008 is amended to read as follows:
6 6-18-1008. Implementation.

7 (a) The State Board of Education shall cause the Commissioner of
8 Elementary and Secondary Education to designate one (1) employee who shall be
9 responsible for overseeing the implementation of this subchapter.

10 (b) ~~By January 1, 1994, and each year thereafter, the Department of~~
11 ~~Education~~ The Division of Elementary and Secondary Education shall compile
12 and present to the Governor, the state board, the House Committee on
13 Education, and the Senate Committee on Education a report outlining the
14 status of implementing each of the provisions of this subchapter by the
15 various school districts.

16
17 SECTION 1573. Arkansas Code § 6-18-1104(b), concerning the procedure
18 for participation in elementary school fund-raising programs, is amended to
19 read as follows:

20 (b) A one-page form for parental notification and permission shall be
21 developed by the ~~Department of Education~~ Division of Elementary and Secondary
22 Education in cooperation with school administrators and the Arkansas Parent
23 Teacher Association.

24
25 SECTION 1574. Arkansas Code § 6-18-1302(4)(A), concerning the
26 definition of "questionnaire or survey" under the Parental Authorization of
27 Questionnaires Act, is amended to read as follows:

28 (4)(A) "Questionnaire or survey" means a list or group of
29 questions, responses to which are provided to a person or an entity other
30 than a public school, a public school district, the ~~Department of Education~~
31 Division of Elementary and Secondary Education, or any branch of the United
32 States ~~government~~ Government.

33
34 SECTION 1575. Arkansas Code § 6-18-1501(a)(1)(B)(i), concerning vision
35 screenings, is amended to read as follows:

36 (B)(i) The ~~Department of Education~~ Division of Elementary

1 and Secondary Education shall ensure the provision of all general revenues
2 necessary to access federal funds for eye and vision screenings for all
3 qualified federal healthcare program recipients.

4
5 SECTION 1576. The introductory language of Arkansas Code § 6-18-
6 1501(b), concerning vision screenings, is amended to read as follows:

7 (b) An eye and vision screening shall include the following tests,
8 procedures, equipment, and instruments approved by the Arkansas Commission on
9 Eye and Vision Care of School-Age Children and the ~~department~~ division:

10
11 SECTION 1577. Arkansas Code § 6-18-1502(b)(1), concerning child eye
12 exams, is amended to read as follows:

13 (b)(1) If a child does not receive an appropriate examination, as
14 evidenced by a certificate signed by an optometrist or ophthalmologist
15 acknowledging the examination, then the public school or public charter
16 school where the child is registered shall report the child to the ~~Department~~
17 of Education Division of Elementary and Secondary Education.

18
19 SECTION 1578. Arkansas Code § 6-18-1503(a), concerning standardized
20 forms for eye and vision screening reports, is amended to read as follows:

21 (a) Standardized forms for eye and vision screening reports shall be
22 developed by the ~~Department of Education~~ Division of Elementary and Secondary
23 Education in conjunction with the Arkansas Commission on Eye and Vision Care
24 of School-Age Children and adopted by the ~~department~~ division in regulations
25 promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et
26 seq.

27
28 SECTION 1579. Arkansas Code § 6-18-1504 is amended to read as follows:
29 6-18-1504. Training.

30 The ~~Department of Education~~ Division of Elementary and Secondary
31 Education, in conjunction with the Arkansas Commission on Eye and Vision Care
32 of School-Age Children, shall adopt regulations that establish standards for
33 training school nurses to perform eye and vision screenings.

34
35 SECTION 1580. Arkansas Code § 6-18-1602(2)(B)(i), concerning the
36 definition of "Smart Core" under the Universal ACT Assessment Program Act, is

1 amended to read as follows:

2 (i) Established by rules of the state board in
3 coordination with the ~~Department~~ Division of Higher Education; and

4
5 SECTION 1581. Arkansas Code § 6-18-1603 is amended to read as follows:
6 6-18-1603. Creation.

7 There is created in the ~~Department of Education~~ Division of Elementary
8 and Secondary Education the Universal ACT Assessment Program to be developed,
9 implemented, and administered by the ~~department~~ division as provided in this
10 subchapter.

11

12 SECTION 1582. Arkansas Code § 6-18-1606(a), concerning implementation
13 of the Universal ACT Assessment Program, is amended to read as follows:

14 (a) Beginning with the 2017-2018 school year, the Universal ACT
15 Assessment Program may provide each student in grades nine (9), ten (10),
16 eleven (11), or twelve (12) with the opportunity to take the ACT Assessment
17 while in grades nine (9), ten (10), eleven (11), or twelve (12) without any
18 charge by using school district funding, including National School Lunch Act
19 funds, 42 U.S.C. § 1751 et seq., to pay for the exams as approved by the
20 ~~Department of Education~~ Division of Elementary and Secondary Education.

21

22 SECTION 1583. Arkansas Code § 6-18-1607 is amended to read as follows:
23 6-18-1607. Rules.

24 The ~~Department~~ Division of Higher Education and the ~~Department of~~
25 ~~Education~~ Division of Elementary and Secondary Education shall develop rules
26 for the administration of this subchapter.

27

28 SECTION 1584. Arkansas Code § 6-18-1608 is amended to read as follows:
29 6-18-1608. Reporting.

30 The ~~Department~~ Division of Higher Education and the ~~Department of~~
31 ~~Education~~ Division of Elementary and Secondary Education shall submit a
32 combined annual report to the Legislative Council by December 1 of each year
33 that establishes compliance with this subchapter, provides data on the number
34 of participants in the Universal ACT Assessment Program, and outlines the
35 impact of this program on the college readiness of high school seniors and
36 the remediation rates at institutions of higher education.

1
2 SECTION 1585. Arkansas Code § 6-18-1905(a)(2), concerning the
3 application for a transferring student, is amended to read as follows:

4 (2) On a form approved by the ~~Department of Education~~ Division
5 of Elementary and Secondary Education; and

6
7 SECTION 1586. Arkansas Code § 6-18-1906(a)(2), concerning the
8 limitations of the Public School Choice Act of 2015, is amended to read as
9 follows:

10 (2) Annually by January 1, a school district that claims a
11 conflict under subdivision (a)(1) of this section shall submit proof from a
12 federal court to the ~~Department of Education~~ Division of Elementary and
13 Secondary Education that the school district has a genuine conflict under an
14 active desegregation order or active court-approved desegregation plan that
15 explicitly limits the transfer of students between school districts.

16
17 SECTION 1587. Arkansas Code § 6-18-1906(a)(4)-(6), concerning the
18 limitations of the Public School Choice Act of 2015, are amended to read as
19 follows:

20 (4)(A) Within thirty (30) calendar days of receipt of proof
21 under subdivision (a)(2) of this section, the ~~department~~ division shall
22 notify the school district whether it is required to participate in the
23 school choice provisions of this subchapter.

24 (B) The ~~department~~ division may reject incomplete
25 submissions.

26 (C) If the ~~department~~ division does not provide a written
27 exemption to the school district, then the school district shall be required
28 to participate in the school choice provisions of this subchapter.

29 (5) The ~~department~~ division shall maintain on its website a list
30 of school districts that are not required to participate in the school choice
31 provisions of this subchapter.

32 (6) The State Board of Education may review a decision of the
33 ~~department~~ division upon written petition of the affected school district and
34 may affirm or reverse the decision of the ~~department~~ division under the rules
35 promulgated by the state board to implement this subsection.

36

1 SECTION 1588. Arkansas Code § 6-18-1906(b)(2), concerning the
2 limitations of the Public School Choice Act of 2015, is amended to read as
3 follows:

4 (2) Annually by December 15, the ~~department~~ division shall
5 report to each school district the net maximum number of school choice
6 transfers for the next school year.

7
8 SECTION 1589. Arkansas Code § 6-19-102(d), concerning the authority to
9 transport students and vehicles, is amended to read as follows:

10 (d) A bus or other vehicle used in transporting pupils in one (1)
11 district shall not be used to transport pupils in another district without
12 the consent of the ~~Department of Education~~ Division of Elementary and
13 Secondary Education, except as specifically allowed by law.

14
15 SECTION 1590. Arkansas Code § 6-20-106 is amended to read as follows:
16 6-20-106. Amendment 74 rules and regulations.

17 Due to pending public school finance litigation, before any rules and
18 regulations pursuant to the implementation of Arkansas Constitution,
19 Amendment 74, are reviewed by the Administrative Rules and Regulations
20 Subcommittee of the Legislative Council and adopted by the ~~Department of~~
21 Education Division of Elementary and Secondary Education, such proposed rules
22 and regulations shall be reviewed by the Litigation Reports Oversight
23 Subcommittee of the Legislative Council.

24
25 SECTION 1591. The introductory language of Arkansas Code § 6-20-
26 107(b), concerning educational cost reimbursement prohibition, is amended to
27 read as follows:

28 (b) The ~~Department of Education~~ Division of Elementary and Secondary
29 Education, a public school district, or an open-enrollment public charter
30 school shall not be liable for any educational costs or other related costs
31 associated with the placement of a juvenile in an out-of-state residential or
32 inpatient facility for any care and treatment, including psychiatric
33 treatment, unless:

34
35 SECTION 1592. The introductory language of Arkansas Code § 6-20-
36 107(b)(2), concerning educational cost reimbursement prohibition, is amended

1 to read as follows:

2 (2) The ~~department~~ division authorizes public payment for
3 educational costs based on a determination that the educational program and
4 facilities are appropriate for the juvenile and the ~~department~~ division has
5 approved the facility's educational program; and

6

7 SECTION 1593. The introductory language of Arkansas Code § 6-20-
8 107(b)(3)(B), concerning educational cost reimbursement prohibition, is
9 amended to read as follows:

10 (B) If the educational program is not authorized before
11 placement, the ~~department~~ division, public school districts, or open-
12 enrollment public charter schools shall not be responsible for education or
13 other related costs, nor shall they be subject to any order to pay for
14 educational or other related costs.

15

16 SECTION 1594. Arkansas Code § 6-20-107(c)-(f), concerning educational
17 cost reimbursement prohibition, are amended to read as follows:

18 (c) The ~~department~~ division, a public school district, or an open-
19 enrollment public charter school shall not be liable for any educational
20 costs or other related costs associated with the placement of a juvenile in
21 an in-state residential or inpatient facility for any care and treatment,
22 including psychiatric treatment, unless:

23 (1) The ~~department~~ division authorizes public payment for
24 educational costs based on a determination that the educational program and
25 facilities are appropriate for the juvenile and the ~~department~~ division has
26 approved the facility's educational program; and

27 (2)(A) Each educational program authorization precedes the
28 placement.

29 (B) If the educational program is not authorized before
30 the placement, the ~~department~~ division, public school districts, or open-
31 enrollment public charter schools shall not be responsible for education or
32 other related costs, nor shall they be subject to any order to pay for
33 educational or other related costs.

34 (d) The liability of the ~~department~~ division, a public school
35 district, or an open-enrollment public charter school for the educational
36 costs or other related costs described in subsections (b) and (c) of this

1 section shall be limited to the lesser of:

2 (1) The reimbursement rate established by the ~~department~~
3 division for a juvenile placed in a residential or inpatient facility; or

4 (2) The normal and customary educational cost reimbursement rate
5 of the state in which a juvenile is placed in an out-of-state residential or
6 inpatient facility as determined by the ~~department~~ division.

7 (e) This section shall not apply to a juvenile placed in an Arkansas
8 juvenile detention facility as defined in § 6-20-104.

9 (f) Nothing in this section shall be construed to require payment by
10 the ~~department~~ division, a public school district, or an open-enrollment
11 public charter school for educational costs and other related costs
12 associated with the placement of a juvenile in an out-of-state residential or
13 inpatient facility for any care or treatment, including psychiatric
14 treatment, before April 7, 2005.

15

16 SECTION 1595. Arkansas Code § 6-20-210 is amended to read as follows:

17 6-20-210. Pulaski County desegregation.

18 (a) For the fiscal year ending June 30, 2004, and for each fiscal year
19 thereafter, the ~~Department of Education~~ Division of Elementary and Secondary
20 Education shall, from time to time as needed, certify to the Treasurer of
21 State and the Chief Fiscal Officer of the State the amount of funds disbursed
22 or approved to be disbursed by the ~~department~~ division for desegregation
23 expenses under the Pulaski County School Desegregation Settlement Agreement.

24 (b) Upon the receipt of the certification and after making those
25 deductions as set out in § 19-5-202(b)(2)(B), the Treasurer of State shall
26 also deduct from the net general revenues the amount certified and transfer
27 this amount to the ~~Department of Education~~ Division of Elementary and
28 Secondary Education Public School Fund Account, there to be used exclusively
29 for payment of or reimbursement for expenses incurred from the ~~Department of~~
30 ~~Education~~ Division of Elementary and Secondary Education Public School Fund
31 Account under the agreement.

32

33 SECTION 1596. Arkansas Code § 6-20-212 is amended to read as follows:

34 6-20-212. Desegregation expenses.

35 (a) ~~For the fiscal year ending June 30, 2005, and for each fiscal year~~
36 ~~thereafter, the Department of Education~~ The Division of Elementary and

1 Secondary Education shall from time to time, as needed, certify to the
2 Treasurer of State and the Chief Fiscal Officer of the State, the amount of
3 funds disbursed or approved to be disbursed by the ~~department~~ division for
4 desegregation expenses under any desegregation settlement agreement.

5 (b) Upon the receipt of the certification, the Treasurer of State,
6 after making those deductions as set out in § 19-5-202(b)(2)(B), shall also
7 deduct from the net general revenues the amount certified and transfer this
8 amount to the ~~Department of Education~~ Division of Elementary and Secondary
9 Education Public School Fund Account, there to be used exclusively for
10 payment of or reimbursement for expenses incurred from the account under any
11 desegregation settlement agreement.

12
13 SECTION 1597. Arkansas Code § 6-20-223(b), concerning noncredit
14 remedial courses, is amended to read as follows:

15 (b) Nothing in this section shall be interpreted as authorizing a
16 state-supported institution to receive direct payments from the ~~Department of~~
17 ~~Education~~ Division of Elementary and Secondary Education or from a school
18 district for noncredit remedial courses taken by a student.

19
20 SECTION 1598. Arkansas Code § 6-20-224 is amended to read as follows:

21 6-20-224. Federal turnback funds.

22 Any federal mineral leasing funds, federal forest reserve funds,
23 federal flood control funds, or any similar turnback funds in the State
24 Treasury for which the eligible county or school district cannot be
25 identified may be transferred to the ~~Department of Education~~ Division of
26 Elementary and Secondary Education Public School Fund Account and used for
27 any lawful school purpose.

28
29 SECTION 1599. Arkansas Code § 6-20-402(b)(4), concerning a limitation
30 on current indebtedness, postdated warrants and installment contracts, and
31 liability, is amended to read as follows:

32 (4) A copy of any guaranteed energy savings contract that is
33 executed in connection with the acquisition, installation, or construction of
34 energy conservation measures under this section shall be filed with the
35 ~~Department of Education~~ Division of Elementary and Secondary Education.

36

1 SECTION 1600. Arkansas Code § 6-20-402(c)(1)(E), concerning a
2 limitation on current indebtedness, postdated warrants and installment
3 contracts, and liability, is amended to read as follows:

4 (E) The school district obtains the prior written approval
5 of the ~~department~~ division to refinance one (1) or more outstanding postdated
6 warrants, lease-purchase agreements, or installment contracts.

7
8 SECTION 1601. The introductory language of Arkansas Code § 6-20-
9 402(d)(6), concerning a limitation on current indebtedness, postdated
10 warrants and installment contracts, and liability, is amended to read as
11 follows:

12 (6) Upon incurring current indebtedness, the school district
13 shall notify the ~~department~~ division of the indebtedness, on forms provided
14 by the ~~department~~ division, showing the:

15
16 SECTION 1602. Arkansas Code § 6-20-402(e)(2)(A)(ii), concerning a
17 limitation on current indebtedness, postdated warrants and installment
18 contracts, and liability, is amended to read as follows:

19 (ii) Submits a written request for payment of the
20 amount of the unpaid judgment and a certified copy of the final judgment to
21 the Commissioner of Elementary and Secondary Education and the superintendent
22 of the school district.

23
24 SECTION 1603. Arkansas Code § 6-20-402(f), concerning a limitation on
25 current indebtedness, postdated warrants and installment contracts, and
26 liability, is amended to read as follows:

27 (f) If the state board withholds state aid from a school district
28 under subsection (e) of this section, the school district shall be identified
29 by the ~~department~~ division to be a school district in fiscal distress under §
30 6-20-1906.

31
32 SECTION 1604. The introductory language of Arkansas Code § 6-20-
33 415(a), concerning the hiring of public school district desegregation
34 consultants, is amended to read as follows:

35 (a) The ~~Department of Education~~ Division of Elementary and Secondary
36 Education in consultation with the Attorney General shall hire consultants on

1 the following basis:

2

3 SECTION 1605. Arkansas Code § 6-20-415(b) and (c), concerning the
4 hiring of public school district desegregation consultants, are amended to
5 read as follows:

6 (b) The ~~department~~ division shall not pay the consultant fees or
7 expenses from moneys appropriated and available for the reimbursement of
8 attorney's fees to the three (3) Pulaski County school districts under § 6-
9 20-416.

10 (c)(1) The ~~department~~ division and the Attorney General also may hire
11 consultants with expertise in the fields of auditing and forensic accounting
12 to provide oversight and management of the three (3) Pulaski County school
13 districts' finances with an emphasis on desegregation funding.

14 (2) The consultants hired by the ~~department~~ division and the
15 Attorney General shall have full authority to examine any documents and
16 software and shall be allowed full access to any persons necessary to
17 discharge the consultants' duties as directed by the ~~department~~ division and
18 the Attorney General.

19 (3) In addition to the authority otherwise granted to the State
20 Board of Education and the ~~department~~ division by law, the ~~department~~
21 division may require a school district to modify, update, or change the
22 school district's financial oversight or management policies, procedures, or
23 practices in response to the recommendations of the consultants.

24 (4) A school district that fails to comply with the requirements
25 of the ~~department~~ division under this subsection shall be identified by the
26 ~~department~~ division as being in fiscal distress and subject to the applicable
27 enforcement provisions as provided by law.

28

29 SECTION 1606. Arkansas Code § 6-20-416(a), concerning desegregation
30 funding, is amended to read as follows:

31 (a) The ~~Department of Education~~ Division of Elementary and Secondary
32 Education and the Attorney General are authorized to seek proper federal
33 court review and determination of the current unitary status of any school
34 district in the case of Little Rock School District v. Pulaski County Special
35 School District No. 1, et al., No. LR-C-82-866.

36

1 SECTION 1607. The introductory language of Arkansas Code § 6-20-
2 416(b)(1), concerning desegregation funding, is amended to read as follows:

3 (b)(1) ~~Upon July 31, 2007, the department~~ The division and the
4 Attorney General are authorized to seek modification of the current consent
5 decree or enter into a new or an amended consent decree or settlement
6 agreement under this section that allows the State of Arkansas to:

7
8 SECTION 1608. Arkansas Code § 6-20-416(c)(1), concerning desegregation
9 funding, is amended to read as follows:

10 (c)(1) The ~~department~~ division in consultation with the Attorney
11 General shall have the authority to enter into agreements with the three (3)
12 Pulaski County school districts to reimburse the school districts for legal
13 fees incurred for seeking unitary status or partial unitary status.

14
15 SECTION 1609. Arkansas Code § 6-20-416(e), concerning desegregation
16 funding, is amended to read as follows:

17 (e)(1) A school district receiving state funds under a federal court
18 order or a settlement agreement in desegregation litigation shall categorize
19 and describe the state funds received and any expenditure of those funds
20 according to the uniform chart of accounts and codes established by the
21 ~~department~~ division.

22 (2) The ~~department~~ division shall modify, as necessary, the
23 Arkansas Financial Accounting Handbook or the Arkansas Educational Financial
24 Accounting and Reporting System, or both, to ensure that the uniform chart of
25 accounts and codes is available to accurately monitor:

26 (A) State funding paid to a school district under the
27 federal court order or settlement agreement; and

28 (B) All expenditures of that funding.

29 (3) An error related to the coding and reporting of the state
30 funds that causes a material misstatement of financial information is cause
31 for determining a deficiency under the ~~Department of Education~~ Division of
32 Elementary and Secondary Education Rules Governing the Arkansas Financial
33 Accounting and Reporting System and Annual Training Requirements.

34
35 SECTION 1610. The introductory language of Arkansas Code § 6-20-
36 416(f), concerning desegregation funding, is amended to read as follows:

1 (f) By September 1 of each year, a school district that receives state
2 funding pursuant to a federal court order or settlement agreement in
3 desegregation litigation shall report to the ~~department~~ division, in the form
4 and manner established by the ~~department~~ division, the following:

5
6 SECTION 1611. Arkansas Code § 6-20-416(f)(2)(F), concerning
7 desegregation funding, is amended to read as follows:

8 (F) Any other pertinent information as determined by the
9 ~~department~~ division;

10
11 SECTION 1612. Arkansas Code § 6-20-416(f)(3)(D), concerning
12 desegregation funding, is amended to read as follows:

13 (D) The ~~department~~ division may determine additional
14 guidelines regarding the necessary level of specificity;

15
16 SECTION 1613. Arkansas Code § 6-20-416(g) and (h), concerning
17 desegregation funding, are amended to read as follows:

18 (g)(1) A school district not utilizing the Arkansas Public School
19 Computer Network shall provide the ~~department~~ division and the Attorney
20 General, or their designees, full and complete, real-time access to the
21 accounting and school district financial management software utilized by the
22 school district.

23 (2) A school district may satisfy the obligation under
24 subdivision (g)(1) of this section by converting to the Arkansas Public
25 School Computer Network, but the school district still shall provide the
26 ~~department~~ division and the Attorney General, or their designees, with full
27 and complete access to the prior financial management system.

28 (h) This section shall not:

29 (1) Force entry of a consent decree or settlement agreement by
30 the ~~department~~ division or the Attorney General with the three (3) Pulaski
31 County school districts; or

32 (2) Protect any school district from action or sanction by the
33 ~~department~~ division for fiscal, academic, or facilities distress.

34
35 SECTION 1614. Arkansas Code § 6-20-504(b)(3) and (4), concerning
36 children living in foster homes, are amended to read as follows:

1 (3) If the school district to which the request is made fails or
2 refuses to pay the requested funds to the requesting school district within
3 thirty (30) days after receiving the request, the requesting school district
4 may notify the ~~Department of Education~~ Division of Elementary and Secondary
5 Education of the fact, and the ~~department~~ division shall investigate the
6 facts of the request and the refusal to remit payment.

7 (4) If the ~~department~~ division determines that the funds
8 requested were due the requesting school district as provided in this
9 section, the ~~department~~ division shall notify the school districts involved
10 of the determination and shall withhold the amount thereof from the next
11 state aid funds available for distribution to the school district that failed
12 or refused to remit the funds as provided in this subchapter and shall pay
13 the amount over to the requesting school district as provided in this
14 section, to be used for the education of the child living in a foster home
15 who is a student in the school district during the current school year.

16
17 SECTION 1615. Arkansas Code § 6-20-510 is amended to read as follows:

18 6-20-510. Confidentiality of records.

19 All files and records that are required by the laws of this state or
20 under the provisions of applicable federal laws or regulations to be kept
21 confidential and all court orders pertaining to the confidentiality of
22 records or prohibiting or limiting the disclosure thereof pertaining to a
23 child living in a foster home or a child with disabilities under the
24 provisions of this subchapter shall be strictly complied with by the
25 respective school districts and by the ~~Department of Education~~ Division of
26 Elementary and Secondary Education in all correspondence and transactions
27 pertaining to the administration of the provisions of this subchapter.

28
29 SECTION 1616. Arkansas Code § 6-20-601(b)(1), concerning the
30 qualifications for schools to receive isolated school district funding, is
31 amended to read as follows:

32 (1) The school district's budget is prepared by the school
33 district with ~~Department of Education~~ Division of Elementary and Secondary
34 Education approval;

35
36 SECTION 1617. Arkansas Code § 6-20-602(b)(2)(D)(ii), concerning

1 isolated schools, is amended to read as follows:

2 (ii) This section shall not be construed to restrict
3 the authority of the ~~Department of Education~~ Division of Elementary and
4 Secondary Education and the state board otherwise granted by law.

5
6 SECTION 1618. Arkansas Code § 6-20-603(f) and (g), concerning the
7 continued support of isolated school districts, is amended to read as
8 follows:

9 (f) For the purposes of this section, school districts with isolated
10 school areas shall account for the average daily membership of all schools
11 located in the isolated school areas as required by the ~~Department of~~
12 ~~Education~~ Division of Elementary and Secondary Education and shall submit
13 reports as required by the ~~department~~ division.

14 (g) The ~~Department~~ division shall distribute isolated funding under
15 this section in two (2) payments per school year.

16
17 SECTION 1619. Arkansas Code § 6-20-709(c), concerning school lunch
18 menus, is amended to read as follows:

19 (c) The Child Health Advisory Committee, the Child Nutrition Unit of
20 the ~~Department of Education~~ Division of Elementary and Secondary Education,
21 and the Department of Health shall provide technical assistance as necessary.

22
23 SECTION 1620. Arkansas Code § 6-20-801(c)(1), concerning the
24 continuance of the Revolving Loan Fund, is amended to read as follows:

25 (1) To pay expenses of the operation of the revolving loan
26 program administered by the state board and the ~~Department of Education~~
27 Division of Elementary and Secondary Education; and

28
29 SECTION 1621. Arkansas Code § 6-20-1204(c)(1), concerning form of
30 bonds and security, is amended to read as follows:

31 (c)(1) As additional security for the payment of any bond of a school
32 district, the Commissioner of Elementary and Secondary Education shall cure a
33 delinquency in payment by withholding state funding due the district.

34
35 SECTION 1622. Arkansas Code § 6-20-1204(c)(3), concerning form of
36 bonds and security, is amended to read as follows:

1 (3) If the commissioner withholds state funding from a school
2 district pursuant to this subsection, the ~~Department of Education~~ Division of
3 Elementary and Secondary Education shall identify the school district to be a
4 school district in fiscal distress under the Arkansas Fiscal Assessment and
5 Accountability Program, § 6-20-1901 et seq.

6
7 SECTION 1623. Arkansas Code § 6-20-1204(d)(3), concerning form of
8 bonds and security, is amended to read as follows:

9 (3)(A) If the designated paying agent does not receive the bond
10 payment from the district at least five (5) calendar days before the date the
11 payment is due under the authorizing documents, the ~~department~~ division
12 immediately shall cure any deficiency in payment by making payment in the
13 full amount of the deficiency to the designated paying agent.

14 (B) If the commissioner determines that payment has been
15 made by the school district and that a payment deficiency does not exist, the
16 ~~department~~ division shall not make the payment under subdivision (d)(3)(A) of
17 this section.

18 (C) If the ~~department~~ division makes payment under
19 subdivision (d)(3)(A) of this section, it may identify the school district on
20 behalf of which the payment is made to be a school district in fiscal
21 distress under the program.

22 (D)(i) If the ~~department~~ division makes payment under
23 subdivision (d)(3)(A) of this section, a school district shall be indebted to
24 the ~~department~~ division in the full amount paid by the ~~department~~ division
25 and immediately shall remit the full amount to the ~~department~~ division.

26 (ii) If a school district does not remit the full
27 amount to the ~~department~~ division under subdivision (d)(3)(D)(i) of this
28 section, the ~~department~~ division shall withhold from the school district the
29 next distribution of state funding in an amount sufficient to reimburse the
30 ~~department~~ division for the payment.

31 (iii) In the event that the amount of state funding
32 next due to be distributed to the school district is not sufficient to
33 reimburse the ~~department~~ division, the ~~department~~ division shall continue to
34 withhold state funding due to the school district until the ~~department~~
35 division is fully reimbursed.

36 (iv) If the commissioner determines that payment has

1 been made to the ~~department~~ division by the school district and that the
2 obligation of the school district to the ~~department~~ division no longer
3 exists, the ~~department~~ division shall not withhold from the school district
4 the distribution of state funding under subdivisions (d)(3)(D)(ii) and (iii)
5 of this section.

6
7 SECTION 1624. Arkansas Code § 6-20-1205(a)(1), concerning the
8 submission of a statement prior to issuing bonds and approval, is amended to
9 read as follows:

10 (1) Shall furnish to the Commissioner of Elementary and
11 Secondary Education a statement of the amount proposed to be borrowed and of
12 the maturity of the indebtedness, a financial statement of the affairs of the
13 school district, and a certificate from the county clerk showing the then-
14 assessed valuation of the real, personal, and utility property in the school
15 district; and

16
17 SECTION 1625. Arkansas Code § 6-20-1205(c), concerning the submission
18 of a statement prior to issuing bonds and approval, is amended to read as
19 follows:

20 (c) The ~~Department of Education~~ Division of Elementary and Secondary
21 Education is authorized to adopt procedural rules and regulations to enforce
22 the provisions of this section.

23
24 SECTION 1626. Arkansas Code § 6-20-1216(a), concerning the authority
25 to use refunding bonds, is amended to read as follows:

26 (a) Any school district of Arkansas shall have the right, subject to
27 procedural rules and regulations adopted by the ~~Department of Education~~
28 Division of Elementary and Secondary Education, to refund its bonds
29 outstanding at any time. Any ~~department~~ division rule or regulation that
30 would prevent or delay a school district from refunding outstanding bonds may
31 be waived by the Commissioner of Elementary and Secondary Education or the
32 commissioner's designee provided that the commissioner or the commissioner's
33 designee determines that it is in the best interest of the school district to
34 proceed with the refunding immediately.

35
36 SECTION 1627. Arkansas Code § 6-20-1218(a), concerning refunding

1 bonds, maximum amounts, and conversion and sale, is amended to read as
2 follows:

3 (a) When the refunding bonds are issued to be exchanged for
4 outstanding bonds, it shall not be necessary to advertise them for sale, but
5 they may be executed and delivered to the ~~Department of Education~~ Division of
6 Elementary and Secondary Education, and the Commissioner of Elementary and
7 Secondary Education shall, from time to time, as outstanding bonds are
8 presented to him or her for exchange, certify and deliver refunding bonds in
9 face value of the same proportion of the total face value of the refunding
10 bond issue that the face value of the surrendered bonds bears to the total
11 face value of the outstanding bonds to be refunded.

12

13 SECTION 1628. Arkansas Code § 6-20-1223(a)(3), concerning the
14 refunding of bonds and issuance without election, is amended to read as
15 follows:

16 (3) The issue has been approved by the Commissioner of
17 Elementary and Secondary Education or the commissioner's designee subject to
18 ~~Department of Education~~ Division of Elementary and Secondary Education rules
19 and regulations.

20

21 SECTION 1629. Arkansas Code § 6-20-1801 is amended to read as follows:
22 6-20-1801. Filing of audit reports.

23 (a)(1) Unless a shorter period is prescribed by law or regulation, all
24 school districts' annual audits not conducted by Arkansas Legislative Audit
25 shall be completed and filed with the ~~Department of Education~~ Division of
26 Elementary and Secondary Education and the Arkansas Legislative Audit within
27 nine (9) months following the end of each fiscal year.

28 (2) At the request of the school district, the ~~department~~
29 Division of Elementary and Secondary Education may grant an extension of up
30 to ninety (90) days on the deadline under this subsection.

31 (b)(1) All school district contracts for audit services with private
32 certified public accountants shall contain a provision requiring completion
33 of the audit and filing of the audit reports by the auditor with the
34 ~~department~~ Division of Elementary and Secondary Education and Arkansas
35 Legislative Audit within nine (9) months following the end of each fiscal
36 year.

1 (2) At the request of the school district, the ~~department~~
2 Division of Elementary and Secondary Education may grant an extension of up
3 to ninety (90) days on the deadline under this subsection.

4 (c) Arkansas Legislative Audit shall annually provide the ~~department~~
5 Division of Elementary and Secondary Education a list of school districts
6 audited by Arkansas Legislative Audit and update the ~~department~~ Division of
7 Elementary and Secondary Education on any changes throughout the year.

8 (d)(1) If the ~~department~~ Division of Elementary and Secondary
9 Education has identified a school as being in fiscal distress by June 30 of
10 any year, the annual audit of that school district shall be completed and
11 filed with the ~~department~~ Division of Elementary and Secondary Education and
12 the Legislative Joint Auditing Committee within six (6) months following the
13 end of each fiscal year.

14 (2) If the committee determines that circumstances warrant, the
15 committee may extend the time to file the audit report of a fiscally
16 distressed school district up to an additional ninety (90) days.

17
18 SECTION 1630. Arkansas Code § 6-20-1802 is amended to read as follows:
19 6-20-1802. Fiscal distress for failure to file.

20 (a) Any school district failing to file an audit report required by §
21 6-20-1801 within the nine-month time period or within the time period under
22 any extension granted by the ~~Department of Education~~ Division of Elementary
23 and Secondary Education shall automatically be considered by the ~~department~~
24 division to be in fiscal distress.

25 (b) By January 31 of each year, the ~~department~~ division, by certified
26 mail, shall notify any school district failing to file the required audit
27 report that the school district is considered in fiscal distress.

28
29 SECTION 1631. Arkansas Code § 6-20-1803(a), concerning questionable
30 audit reports, is amended to read as follows:

31 (a) If the ~~Department of Education~~ Division of Elementary and
32 Secondary Education or the Legislative Joint Auditing Committee is concerned
33 that a particular audit may be substandard or seriously questionable with
34 respect to applicable professional auditing standards, the ~~department~~
35 division or the committee may file a complaint on the audit report to the
36 Arkansas State Board of Public Accountancy.

1
2 SECTION 1632. Arkansas Code § 6-20-1804 is amended to read as follows:
3 6-20-1804. List of ineligible accountants.

4 (a) The ~~Department of Education~~ Division of Elementary and Secondary
5 Education shall maintain a list of accountants or accounting firms ineligible
6 to conduct school district audits. Accountants or accounting firms placed on
7 the ineligibility list by the ~~department~~ Division of Elementary and Secondary
8 Education shall be ineligible to conduct school audits for a period
9 determined by the ~~department~~ Division of Elementary and Secondary Education
10 but which shall not exceed a five-year period from the end of the fiscal year
11 for which the audit report was contracted to be prepared.

12 (b) Before entering into contracts for audit services, school
13 districts shall inquire with the ~~department~~ Division of Elementary and
14 Secondary Education which accountants are ineligible to conduct public school
15 audits.

16 (c) The ~~department~~ Division of Elementary and Secondary Education may
17 place accountants or accounting firms on the ineligibility list for any of
18 the following reasons:

19 (1) If, in the opinion of the ~~department~~ Division of Elementary
20 and Secondary Education or the Legislative Joint Auditing Committee, a school
21 district audit report is not filed within the nine-month time period or
22 within the time period under any extension granted by the ~~department~~ Division
23 of Elementary and Secondary Education with the ~~department~~ Division of
24 Elementary and Secondary Education and Arkansas Legislative Audit as required
25 by § 6-20-1801 because of neglect or fault of the certified public accountant
26 or accounting firm;

27 (2) If the Quality Review Committee of the Arkansas State Board
28 of Public Accountancy reports to the ~~department~~ Division of Elementary and
29 Secondary Education and the Legislative Joint Auditing Committee that a
30 school district audit report shows evidence of lack of general conformity
31 with applicable professional standards or state laws and regulations or
32 evidence that the report is substandard or seriously questionable; or

33 (3) Any other compelling reason that the ~~department~~ Division of
34 Elementary and Secondary Education believes justifies placing the accountant
35 or accounting firm on the ineligibility list.

36

1 SECTION 1633. Arkansas Code § 6-20-1902 is amended to read as follows:
2 6-20-1902. Purpose.

3 The purpose of this subchapter shall be to establish and implement a
4 program by which the ~~Department of Education~~ Division of Elementary and
5 Secondary Education shall identify, assess, and address school districts in
6 fiscal distress.

7
8 SECTION 1634. Arkansas Code § 6-20-1903(3), concerning definition of
9 "department" in the Arkansas Fiscal Assessment and Accountability Program, is
10 repealed.

11 ~~(3) "Department" means the Department of Education;~~

12
13 SECTION 1635. Arkansas Code § 6-20-1903(4), concerning the Arkansas
14 Fiscal Assessment and Accountability Program, is amended to read as follows:

15 (4) "Fiscal distress status" means a public school district
16 determined by the ~~department~~ Division of Elementary and Secondary Education
17 and classified by the State Board of Education as being placed in fiscal
18 distress status pursuant to this subchapter;

19
20 SECTION 1636. The introductory language of Arkansas Code § 6-20-
21 1904(a), concerning the indicators of fiscal distress, is amended to read as
22 follows:

23 (a) A school district meeting any of the following criteria may be
24 identified by the ~~Department of Education~~ Division of Elementary and
25 Secondary Education to be a school district in fiscal distress upon final
26 approval by the State Board of Education:

27
28 SECTION 1637. Arkansas Code § 6-20-1904(a)(2)(E), concerning the
29 indicators of fiscal distress, is amended to read as follows:

30 (E) Material failure to provide timely and accurate
31 legally required financial reports to the ~~department~~ division, Arkansas
32 Legislative Audit, the General Assembly, or the Internal Revenue Service;

33
34 SECTION 1638. Arkansas Code § 6-20-1904(b), concerning the indicators
35 of fiscal distress, is amended to read as follows:

36 (b)(1) By August 31 of each year, the ~~department~~ division shall report

1 to the superintendent of a school district if the ~~department~~ division is
2 aware that the school district has experienced two (2) or more indicators of
3 fiscal distress in one (1) school year that the ~~department~~ division deems to
4 be at a nonmaterial level but that without intervention could place the
5 district in fiscal distress.

6 (2) The superintendent of a school district shall report to the
7 ~~department~~ division if the superintendent is aware the school district has
8 experienced two (2) or more indicators of fiscal distress in one (1) school
9 year that the superintendent deems to be at a nonmaterial level but that
10 without intervention could place the district in fiscal distress.

11 (3)(A) The ~~department~~ division and the superintendent shall
12 review all data related to the nonmaterial indicators of fiscal distress.

13 (B)(i) Within thirty (30) days of the ~~department's~~
14 division's determination that the school district may be experiencing fiscal
15 distress at a nonmaterial level, the ~~department~~ division shall provide a
16 notice to the school district's superintendent and board of directors that:

17 (a) Describes the nonmaterial indicators of
18 fiscal distress that could jeopardize the fiscal integrity of the school
19 district if not addressed; and

20 (b) Identifies the support available from the
21 ~~department~~ division to address each nonmaterial indicator of fiscal distress.

22 (ii) The board of directors shall place on the
23 agenda for the next regularly scheduled meeting of the board of directors a
24 discussion of the notice of nonmaterial indicators of fiscal distress.

25
26 SECTION 1639. Arkansas Code § 6-20-1905 is amended to read as follows:

27 6-20-1905. Notification and appeal.

28 (a)(1)(A)(i) The ~~Department of Education~~ Division of Elementary and
29 Secondary Education shall provide written notice, via certified mail, return
30 receipt requested, to the president of the school district board of directors
31 and the superintendent of each school district identified as being in fiscal
32 distress.

33 (ii) The ~~department~~ division shall provide the
34 notice required under this subdivision (a)(1)(A) on or before March 30 of
35 each year.

36 (B)(i) At any time after March 30, the ~~department~~ division

1 may identify a school district as being in fiscal distress if the ~~department~~
2 division discovers that a fiscal condition of a school district negatively
3 impacts the continuation of educational services by the school district.

4 (ii) The ~~department~~ division immediately shall
5 provide the same notice required under subdivision (a)(1)(A)(i) to the school
6 district identified under this subdivision (a)(1)(B).

7 (b) Any school district identified in fiscal distress status may
8 appeal to the State Board of Education by filing a written appeal with the
9 office of the Commissioner of Elementary and Secondary Education by certified
10 mail, return receipt requested, within thirty (30) days of receipt of notice
11 of identified fiscal distress status from the ~~department~~ division.

12 (c) The state board shall hear the appeal within sixty (60) days of
13 receipt of the written notice of appeal from the school district.

14 (d) The written appeal shall state in clear terms the reason why the
15 school district should not be classified as in fiscal distress.

16 (e) Notwithstanding any appeal rights in this subchapter, no appeal
17 shall stay the ~~department's~~ division's authority to take action to protect
18 the fiscal integrity of any school district identified as in fiscal distress.

19 (f) The decision of the state board shall be a final order, and there
20 is no further right of appeal except that the school district may appeal to
21 Pulaski County Circuit Court pursuant to the Arkansas Administrative
22 Procedure Act, § 25-15-201 et seq.

23
24 SECTION 1640. Arkansas Code § 6-20-1906(a), concerning the
25 classification of fiscal distress status, is amended to read as follows:

26 (a) Those school districts identified by the ~~Department of Education~~
27 Division of Elementary and Secondary Education as being in fiscal distress
28 shall be classified as school districts in fiscal distress upon final
29 determination by the State Board of Education.

30
31 SECTION 1641. Arkansas Code § 6-20-1907 is amended to read as follows:
32 6-20-1907. Debt issuance.

33 No school district identified in fiscal distress may incur any debt
34 without the prior written approval of the ~~Department of Education~~ Division of
35 Elementary and Secondary Education.

36

1 SECTION 1642. Arkansas Code § 6-20-1908 is amended to read as follows:
2 6-20-1908. Fiscal distress plan.

3 (a) Those school districts identified by the ~~Department of Education~~
4 Division of Elementary and Secondary Education as being in fiscal distress
5 shall file with the ~~department~~ division within ten (10) days after the final
6 classification by the State Board of Education a written fiscal distress
7 improvement plan to address any area in which the school district is
8 experiencing fiscal distress as identified by the ~~department~~ division.

9 (b) Each school district shall seek and obtain approval of its plan
10 from the ~~department~~ division and shall describe how the school district will
11 remedy those areas in which the school district is experiencing fiscal
12 distress and shall establish the time period by which the school district
13 will remedy all criteria which placed the school district in fiscal distress
14 status.

15 (c) A school district in fiscal distress may only petition the state
16 board for removal from fiscal distress status after the ~~department~~ division
17 has certified in writing that the school district has corrected all criteria
18 for being classified as in fiscal distress and has complied with all
19 ~~department~~ division recommendations and requirements for removal from fiscal
20 distress.

21 (d) Except under § 6-20-1910(e), a school district shall not be
22 allowed to remain in fiscal distress status for more than five (5)
23 consecutive school years from the date that the school district was
24 classified as being in fiscal distress status.

25 (e) Any school district classified as being in fiscal distress status
26 shall be required to receive on-site technical evaluation and assistance from
27 the ~~department~~ division.

28 (f)(1) The ~~department~~ division shall evaluate and make written
29 recommendations to the district superintendent regarding staffing of the
30 school district and fiscal practices of the school district.

31 (2) The written recommendations of the ~~department~~ division shall
32 be binding on the school district, the superintendent, and the school
33 district board of directors.

34 (g) Every six (6) months, the ~~department~~ division shall submit a
35 written evaluation on the status of each school district in fiscal distress
36 to the state board.

1 (h)(1) The ~~department~~ division may petition the state board at any
2 time for the consolidation, annexation, or reconstitution of a school
3 district in fiscal distress or take other appropriate action as allowed by
4 this subchapter in order to secure and protect the best interest of the
5 educational resources of the state or to provide for the best interests of
6 students in the school district.

7 (2) The state board may approve the petition or take other
8 appropriate action as allowed by this subchapter.

9 (i) Except under § 6-20-1910(e), the state board shall consolidate,
10 annex, or reconstitute any school district that fails to remove itself from
11 the classification of a school district in fiscal distress within five (5)
12 consecutive school years of classification of fiscal distress status unless
13 the state board, at its discretion, issues a written finding supported by a
14 majority of the state board, explaining in detail that the school district
15 could not remove itself from fiscal distress due to impossibility caused by
16 external forces beyond the school district's control.

17
18 SECTION 1643. The introductory language of Arkansas Code § 6-20-
19 1909(a), concerning the Department of Education fiscal distress actions, is
20 amended to read as follows:

21 (a) In addressing school districts in fiscal distress, the
22 Commissioner of Elementary and Secondary Education may:

23
24 SECTION 1644. Arkansas Code § 6-20-1909(a)(1)(B), concerning the
25 Department of Education fiscal distress actions, is amended to read as
26 follows:

27 (B) Compensate ~~nondepartment~~ nondivision agents operating
28 the school district from school district funding;

29
30 SECTION 1645. Arkansas Code § 6-20-1909(a)(7)(A)(i), concerning the
31 Department of Education fiscal distress actions, is amended to read as
32 follows:

33 (i) The ~~Department of Education~~ Division of
34 Elementary and Secondary Education certifies in writing to the state board
35 and to the school district that the school district has corrected all issues
36 that caused the classification of fiscal distress; and

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SECTION 1646. Arkansas Code § 6-20-1909(b)-(d), concerning the Department of Education fiscal distress actions, are amended to read as follows:

(b) The ~~department~~ division may impose various reporting requirements on the school district.

(c) The ~~department~~ division shall monitor the fiscal operations and accounts of the school district.

(d) The ~~department~~ division shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

SECTION 1647. The introductory language of Arkansas Code § 6-20-1910(d), concerning state board actions to consolidate, annex, or reconstitute a school district, is amended to read as follows:

(d) If the Commissioner of Elementary and Secondary Education assumes authority over a public school district in fiscal distress under § 6-20-1909, the state board may pursue the following process for returning a public school district to the local control of its residents:

SECTION 1648. The introductory language of Arkansas Code § 6-20-1910(d)(2)(C), concerning state board actions to consolidate, annex, or reconstitute a school district, is amended to read as follows:

(C) The ~~Department of Education~~ Division of Elementary and Secondary Education shall cause to be provided to the community advisory board technical assistance and training in, at a minimum, the areas required in § 6-13-629.

SECTION 1649. Arkansas Code § 6-20-1910(d)(3)(A)(ii)(a), concerning state board actions to consolidate, annex, or reconstitute a school district, is amended to read as follows:

(a) The ~~department~~ division certifies in writing to the state board and to the school district that the school district has corrected all criteria for being placed into fiscal distress; and

1 SECTION 1650. Arkansas Code § 6-20-1910(f), concerning state board
2 actions to consolidate, annex, or reconstitute a school district, is amended
3 to read as follows:

4 (f) Nothing in this section shall be construed to prevent the
5 ~~department~~ division or the state board from taking any of the actions listed
6 in § 6-20-1909 or this section at any time to address a school district in
7 fiscal distress.

8
9 SECTION 1651. Arkansas Code § 6-20-1911 is amended to read as follows:
10 6-20-1911. Rules and regulations.

11 (a) The ~~Department of Education~~ Division of Elementary and Secondary
12 Education shall promulgate rules and regulations as necessary to identify,
13 evaluate, assist, and address school districts in fiscal distress.

14 (b) The ~~department~~ division may promulgate rules and regulations as
15 necessary to administer this subchapter.

16
17 SECTION 1652. Arkansas Code § 6-20-2002(2), concerning the definition
18 of "classroom teacher" under the laws regarding tracking and accounting of
19 interschool athletic program funds, is amended to read as follows:

20 (2) "Classroom teacher" means an individual who is required to
21 hold a teaching license from the ~~Department of Education~~ Division of
22 Elementary and Secondary Education and who is engaged directly in instruction
23 with students in a classroom setting for more than seventy percent (70%) of
24 the individual's contracted time;

25
26 SECTION 1653. Arkansas Code § 6-20-2002(4), concerning the definition
27 of "state funds" under the laws regarding tracking and accounting of
28 interschool athletic program funds, is amended to read as follows:

29 (4) "State funds" means all money derived from state revenues,
30 specifically including, but not limited to, distributions from the ~~Department~~
31 ~~of Education~~ Division of Elementary and Secondary Education Public School
32 Fund Account and ad valorem property taxes distributed to a public school or
33 school district.

34
35 SECTION 1654. Arkansas Code § 6-20-2003(a), concerning reporting by
36 local school districts, is amended to read as follows:

1 (a) During the appropriate Arkansas Public School Computer
2 Network reporting cycle each year, a school district shall submit appropriate
3 data to the ~~Department of Education~~ Division of Elementary and Secondary
4 Education documenting the school district's total athletic expenditures paid
5 from state funds.

6
7 SECTION 1655. Arkansas Code § 6-20-2102(1), concerning the definition
8 of "classroom teacher" under the laws governing the tracking and accounting
9 of interschool scholastic activity funds, is amended to read as follows:

10 (1) "Classroom teacher" means an individual who is required to
11 hold a teaching license from the ~~Department of Education~~ Division of
12 Elementary and Secondary Education and who is engaged directly in instruction
13 with students in a classroom setting for more than seventy percent (70%) of
14 the individual's contracted time;

15
16 SECTION 1656. Arkansas Code § 6-20-2102(4), concerning the definition
17 of "state funds" under the laws governing the tracking and accounting of
18 interschool scholastic activity funds, is amended to read as follows:

19 (4) "State funds" means all money derived from state revenues,
20 specifically including, but not limited to, distributions from the ~~Department~~
21 ~~of Education~~ Division of Elementary and Secondary Education Public School
22 Fund Account and ad valorem property taxes distributed to a public school or
23 school district.

24
25 SECTION 1657. Arkansas Code § 6-20-2103(a), concerning reporting by
26 school districts, is amended to read as follows:

27 (a) During the appropriate Arkansas Public School Computer Network
28 reporting cycle each year, a school district shall submit data to the
29 ~~Department of Education~~ Division of Elementary and Secondary Education
30 documenting the school district's total interschool scholastic activity
31 expenditures paid from state funds.

32
33 SECTION 1658. Arkansas Code § 6-20-2202 is amended to read as follows:
34 6-20-2202. Budget and expenditure report.

35 (a)(1) The board of directors of each school district, open-enrollment
36 public charter school, and education service cooperative annually shall

1 prepare a budget of expenditures and receipts that shall be filed with the
2 ~~Department of Education~~ Division of Elementary and Secondary Education by
3 September 30 of each year under this subchapter.

4 (2)(A) Each budget shall be approved by the board of directors
5 of each school district, open-enrollment public charter school, and education
6 service cooperative at a legally held meeting and shall be signed by the
7 president of the board of directors and the ex officio financial secretary of
8 each school district, open-enrollment public charter school, and education
9 service cooperative.

10 (B) The budget shall contain the information and be
11 prepared in an electronic format prescribed by the ~~Department of Education~~
12 Division of Elementary and Secondary Education governing financial accounting
13 for Arkansas school districts, open-enrollment public charter schools, and
14 education service cooperatives.

15 (3)(A) The electronic format required by the ~~Department of~~
16 ~~Education~~ Division of Elementary and Secondary Education shall be available
17 for completion by school districts, open-enrollment public charter schools,
18 and education service cooperatives not later than September 15 of each year.

19 (B) The ~~Department of Education~~ Division of Elementary and
20 Secondary Education shall declare when the electronic format is accessible to
21 school districts, open-enrollment public charter schools, and education
22 service cooperatives via a Commissioner of Elementary and Secondary
23 Education's memo.

24 (b)(1)(A) Warrants or checks of a school district, open-enrollment
25 public charter school, or education service cooperative issued after the date
26 required by subsection (a) of this section shall be invalid unless a budget
27 has been filed as required by this subchapter and in compliance with
28 appropriate rules.

29 (B) The ex officio financial secretary of a school
30 district, open-enrollment public charter school, or education service
31 cooperative and his or her surety shall be liable for any warrants or checks
32 countersigned after the date required by subsection (a) of this section if a
33 budget has not been filed.

34 (2) After the ~~Department of Education~~ Division of Elementary and
35 Secondary Education has met all deadlines for providing information to school
36 districts, open-enrollment public charter schools, or education service

1 cooperatives, distribution of all grants and aids from the state for which
2 the school district, open-enrollment public charter school, or education
3 service cooperative may be eligible shall be suspended until the requirements
4 of this subchapter are met by the school districts, open-enrollment public
5 charter schools, or education service cooperatives.

6 (c)(1)(A) School district, open-enrollment public charter school, and
7 education service cooperative budgets filed pursuant to this section shall be
8 reviewed by the auditors of the financial accountability office of the
9 ~~Department of Education~~ Division of Elementary and Secondary Education to
10 determine whether the requirements of state law and the rules of the State
11 Board of Education regarding the use of school, open-enrollment public
12 charter school, and education service cooperative funds and expenditure
13 requirements are being met.

14 (B)(i) The review and the determination shall be completed
15 not later than February 15 of each year.

16 (ii) If the auditors of the financial accountability
17 office determine that the financial records are deficient, then the school
18 district, open-enrollment public charter school, or education service
19 cooperative shall be notified and shall have thirty (30) days to respond
20 prior to suspension of the grants and aids.

21 (2) Upon approval by the auditors, copies of the approved budget
22 shall be filed with the school district, the open-enrollment public charter
23 school, the education service cooperative, the county treasurer if serving as
24 school treasurer, and the ~~Department of Education~~ Division of Elementary and
25 Secondary Education.

26 (d)(1)(A) The ex officio financial secretary of each school district,
27 open-enrollment public charter school, and education service cooperative
28 shall keep a record of the following information in a format required by the
29 ~~Department of Education~~ Division of Elementary and Secondary Education:

30 (i) The daily expenditures and receipts of the
31 school district, open-enrollment public charter school, or education service
32 cooperative; and

33 (ii)(a) Information on fund balances maintained by
34 the school district, open-enrollment public charter school, or education
35 service cooperative, including, but not limited to, the:

36 (1) Sources of the funds maintained as

1 fund balances, to the extent practicable;

2 (2) Reasons for maintaining, instead of
3 spending, the fund balances;

4 (3)(A) Amount of funds transferred
5 between various funds during the past year.

6 (B) The school district, open-
7 enrollment public charter school, and education service cooperative shall
8 identify the funds transferred between and the amount of funds transferred;
9 and

10 (4) Amount of fund balances dedicated
11 for the construction, maintenance, or repair of academic or athletic
12 facilities.

13 (b) ~~The Department of Education~~ Division of
14 Elementary and Secondary Education shall promulgate rules that require
15 reporting of fund balances sufficient to verify whether funds allocated for
16 educational purposes, including, but not limited to, student academic needs
17 and the maintenance and operation of public school district facilities, are
18 used for their intended purposes or retained by the school district in its
19 fund balances.

20 (B)(i) An annual report summarizing the information
21 required in subdivision (d)(1)(A) of this section in a format required by the
22 ~~Department of Education~~ Division of Elementary and Secondary Education shall
23 be filed by August 31 of each year with the ~~Department of Education~~ Division
24 of Elementary and Secondary Education.

25 (ii) A final close must be performed in each school
26 district's or open-enrollment public charter school's or education service
27 cooperative's applicable general ledger database no later than September 10
28 of each year.

29 (iii) The Arkansas Public School Computer Network
30 shall ensure that proper controls are in place to prohibit changes to the
31 aforementioned data after the final close has been performed.

32 (2) If the auditors of the financial accountability office of
33 the ~~Department of Education~~ Division of Elementary and Secondary Education
34 determine that the financial records of any school district, open-enrollment
35 public charter school, or education service cooperative are not properly
36 maintained or that the financial affairs of the school district, open-

1 enrollment public charter school, or education service cooperative are not
2 administered in accordance with state law or state board rules, grants and
3 aids from the state to which the school district, open-enrollment public
4 charter school, or education service cooperative may be entitled shall be
5 withheld until it is determined that the fiscal records of the school
6 district, open-enrollment public charter school, or education service
7 cooperative are in order or that the financial affairs are being properly
8 administered as established by statute or by rule promulgated by the state
9 board, provided that the ~~Department of Education~~ Division of Elementary and
10 Secondary Education has met all deadlines for providing information to school
11 districts, open-enrollment public charter schools, or education service
12 cooperatives.

13 (e)(1) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education may withhold state aid from any school district, open-
15 enrollment public charter school, or education service cooperative that fails
16 to file its budget or any other required report with the ~~Department of~~
17 ~~Education~~ Division of Elementary and Secondary Education by the deadline
18 established by statute or by rule promulgated by the state board or by the
19 due dates established by the ~~Department of Education~~ Division of Elementary
20 and Secondary Education pursuant to subdivision (e)(2) of this section,
21 provided that the ~~Department of Education~~ Division of Elementary and
22 Secondary Education has met all deadlines for providing pertinent information
23 to school districts, open-enrollment public charter schools, or education
24 service cooperatives.

25 (2) The ~~Department of Education~~ Division of Elementary and
26 Secondary Education shall submit a list of all required financial
27 accountability reports along with due dates to each school district, open-
28 enrollment public charter school, and education service cooperative by July 1
29 of each year.

30 (f) The state board shall promulgate the necessary rules to fully
31 implement this section.

32 (g)(1) The Treasurer of State shall withhold the monthly distribution
33 of county aid provided under § 19-5-602(c) from any county whose county
34 official who is the preparer of the tax books fails to provide by March 15 of
35 each calendar year information concerning the annual abstract of assessment
36 that reflects the aggregate value of the real and personal property for each

1 school district located wholly or in part in the county as follows:

2 (A) If the county is capable of providing the information
3 electronically, then the information shall be provided to both the ~~Department~~
4 ~~of Education~~ Division of Elementary and Secondary Education and the
5 Assessment Coordination ~~Department~~ Division; and

6 (B) If the county is not capable of providing the
7 information electronically, then the information shall be provided only to
8 the Assessment Coordination ~~Department~~ Division.

9 (2) The information transmitted to the ~~Department of Education~~
10 Division of Elementary and Secondary Education and the Assessment
11 Coordination ~~Department~~ Division shall also include:

12 (A) The previous calendar year's property assessment that
13 will be used for ad valorem tax collections in the current year; and

14 (B) The millage rates, which shall be listed by the type
15 of millage, levied against that property assessment.

16

17 SECTION 1659. Arkansas Code § 6-20-2203(a)(3)(A), concerning the
18 requirement of a uniform budget and accounting system, is amended to read as
19 follows:

20 (3)(A) Pursuant to § 6-20-2207, the ~~Department of Education~~
21 Division of Elementary and Secondary Education shall establish and implement
22 a uniform chart of accounts known as the "Arkansas Financial Accounting
23 Handbook" or the "Arkansas Handbook".

24

25 SECTION 1660. Arkansas Code § 6-20-2203(a)(4), concerning the
26 requirement of a uniform budget and accounting system, is amended to read as
27 follows:

28 (4) The rules shall be developed by the state board in
29 cooperation with the ~~department~~ division, representatives from the Arkansas
30 Association of Educational Administrators, the Arkansas Association of School
31 Business Officials, the Arkansas Education Association, the education service
32 cooperatives, and the Legislative Joint Auditing Committee.

33

34 SECTION 1661. Arkansas Code § 6-20-2203(b), concerning the requirement
35 of a uniform budget and accounting system, is amended to read as follows:

36 (b) To the extent necessary to comply with federal law, the terms and

1 definitions contained in the Arkansas Handbook shall initially comply with
2 Financial Accounting for Local and State School Systems, 2003 Edition (NCES
3 2004-318), and may thereafter be revised by the ~~department~~ division as
4 necessary to remain consistent and shall be used for valid comparisons of
5 expenditures of schools, school districts, open-enrollment public charter
6 schools, and education service cooperatives.

7
8 SECTION 1662. Arkansas Code § 6-20-2203(c)(3)(B), concerning the
9 requirement of a uniform budget and accounting system, is amended to read as
10 follows:

11 (B) The ~~department~~ division shall implement the
12 expenditure categories in this subdivision (c)(3) beginning with the 2007-
13 2008 school year;

14
15 SECTION 1663. Arkansas Code § 6-20-2203(c)(4)(B), concerning the
16 requirement of a uniform budget and accounting system, is amended to read as
17 follows:

18 (B) The ~~department~~ division shall complete a trial
19 implementation of the revenue categories in subdivisions (c)(4)(A)(i) and
20 (ii) of this section by the end of the 2007-2008 school year and fully
21 implement all revenue categories in this subdivision (c)(4) beginning with
22 the 2008-2009 school year;

23
24 SECTION 1664. Arkansas Code § 6-20-2203(c)(5)(B), concerning the
25 requirement of a uniform budget and accounting system, is amended to read as
26 follows:

27 (B) The ~~department~~ division shall implement this
28 subdivision (c)(5) beginning with the 2007-2008 school year;

29
30 SECTION 1665. Arkansas Code § 6-20-2203(c)(6)(B), concerning the
31 requirement of a uniform budget and accounting system, is amended to read as
32 follows:

33 (B) The ~~department~~ division shall implement this
34 subdivision (c)(6) beginning with the 2007-2008 school year;

35
36 SECTION 1666. Arkansas Code § 6-20-2203(c)(8)(B), concerning the

1 requirement of a uniform budget and accounting system, is amended to read as
2 follows:

3 (B) The ~~department~~ division shall implement this
4 subdivision (c)(8) beginning with the 2007-2008 school year.

5
6 SECTION 1667. Arkansas Code § 6-20-2203(e) and (f), concerning the
7 requirement of a uniform budget and accounting system, are amended to read as
8 follows:

9 (e) The ~~department~~ division shall have the authority to analyze and
10 inspect the financial records of any school, open-enrollment public charter
11 school, school district, or education service cooperative in order to verify
12 that a school, school district, or education service cooperative is correctly
13 and accurately reporting expenditures.

14 (f) By February 15 of each year, the ~~department~~ division shall submit
15 a report to the state board, the Governor, the Senate Committee on Education,
16 and the House Committee on Education concerning public school and public
17 school district expenditures required by law.

18

19 SECTION 1668. Arkansas Code § 6-20-2204 is amended to read as follows:
20 6-20-2204. Required training.

21 (a)(1)(A) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education shall establish two (2) tiers of required training.

23 (B) Both tiers of required training shall apply to public
24 school districts, open-enrollment public charter schools, and education
25 service cooperatives.

26 (C)(i) At a minimum, two (2) persons per educational
27 entity are required to attend an initial and annual Tier I training:

28 (a) The school district superintendent or the
29 education service cooperative director or the open-enrollment public charter
30 school director; and

31 (b) A person whose job responsibilities
32 include preparing the budget or overall accounting responsibility.

33 (ii) The two (2) persons per educational entity
34 required to attend the initial and annual Tier I training shall each obtain
35 twelve (12) hours of initial training and instruction necessary to
36 demonstrate basic proficiency as determined by the ~~department~~ division,

1 including, but not limited to:

- 2 (a) School laws of Arkansas;
- 3 (b) Laws and rules governing the expenditure
- 4 of public education funds, fiscal accountability, and school finance;
- 5 (c) Ethics; and
- 6 (d) Financial accounting and reporting of
- 7 schools, school districts, open-enrollment public charter schools, and
- 8 education service cooperative expenditures.

9 (2)(A) Each year thereafter, the school district superintendent,

10 the education service cooperative executive director, or open-enrollment

11 public charter school director and the person whose job responsibilities

12 include preparing the budget or overall accounting responsibility who have

13 already attended the initial and Tier I training shall obtain by December 31

14 of each calendar year a minimum of two (2) hours of annual training and

15 instruction as required by the ~~department~~ division in order to maintain basic

16 proficiency in the topics described in subdivision (a)(1) of this section.

17 (B) Additional annual training may be required by the

18 ~~department~~ division for the school district superintendent, the education

19 service cooperative executive director, or open-enrollment public charter

20 school director and the person whose job responsibilities include preparing

21 the budget or overall accounting responsibility based on repetitive or

22 flagrant audit findings or the identification of multiple indicators of

23 fiscal distress.

24 (3)(A) The instruction may be provided by an institution of

25 higher education in this state, from instruction sponsored by the ~~department~~

26 division, by an in-service training program conducted by the Arkansas

27 Association of School Business Officials, or from another provider.

28 (B) To satisfy the training and requirements under this

29 subsection, any provider other than the ~~department~~ division shall apply for

30 and receive preapproval by the ~~department~~ division as to the form and content

31 of the training and instruction before they are offered as training and

32 instruction to comply with the provisions of this subsection ~~(a)~~.

33 (4)(A) If a person fails to obtain the required Tier I training

34 by the end of the calendar year and fails to cure the deficiency by March 1

35 of the following calendar year without filing a request for extension of time

36 as determined from the records of the ~~department~~ division, the ~~department~~

1 division shall immediately notify the superintendent of the employing school
2 district, the director of the open-enrollment public charter school, or the
3 executive director of the education service cooperative by certified mail,
4 return receipt requested, with a copy to the state board president.

5 (B)(i) The superintendent of the school district, the
6 director of the open-enrollment public charter school, or the education
7 service cooperative executive director shall notify the person by certified
8 mail, return receipt requested, and the person shall be unable to continue in
9 his or her position from the date of receipt of notification by the
10 superintendent of the school district, the director of the open-enrollment
11 public charter school, or the education service cooperative executive
12 director.

13 (ii) Any person receiving notice that he or she
14 shall be unable to continue in his or her position solely because of his or
15 her failure to obtain the required training may request a hearing before the
16 State Board of Education prior to his or her permanent dismissal.

17 (5) If the person fails to obtain all required training by
18 December 31, this failure shall constitute one (1) citation against the
19 school district or the open-enrollment public charter school as measured by
20 the Standards for Accreditation of Arkansas Public Schools and School
21 Districts issued by the ~~department~~ division or an admonishment to the
22 education service cooperative by the ~~department~~ division.

23 (6)(A) If the person is unable to obtain the required training
24 because of military service or illness as verified by a written sworn
25 statement of the person's attending physician, the ~~department~~ division shall
26 grant an extension permitting the person additional time to obtain the
27 required training.

28 (B) The issuance of an extension shall not constitute a
29 citation against the school district as measured by the Standards for
30 Accreditation of Arkansas Public Schools and School Districts issued by the
31 ~~department~~ division or the education service cooperative and shall not
32 operate to remove the person from his or her job.

33 (b)(1) Tier II training shall include, but not be limited to,
34 employees who do not make decisions about selecting codes or who have a
35 limited number of codes that they can use.

36 (2) Tier II training shall be developed by the ~~department~~

1 division in cooperation with representatives from the Arkansas Association of
2 Educational Administrators, the Arkansas Association of School Business
3 Officials, the Arkansas Education Association, the Legislative Joint Auditing
4 Committee, and the education service cooperatives.

5 (3)(A) The training shall be annual and shall be a minimum of
6 two (2) hours.

7 (B) Additional annual training may be required by the
8 ~~department~~ division for employees who do not make decisions about selecting
9 codes or who have a limited number of codes that they can use based on
10 repetitive or flagrant audit findings or the identification of multiple
11 indicators of fiscal distress.

12 (4) School districts shall be responsible for providing the
13 training to these employees.

14 (5) School district trainers are required to attend Tier I
15 training and annual updates as required by the ~~department~~ division under this
16 subsection ~~(b)~~ and subsection (a) of this section.

17 (c)(1) Each school district, open-enrollment public charter school, or
18 education service cooperative shall maintain files and records indicating all
19 employees who are required to obtain and who have completed Tier II training.

20 (2) Each school district superintendent, open-enrollment public
21 charter school director, or education service cooperative executive director
22 shall provide the ~~department~~ division an assurance statement regarding the
23 completion of Tier II training by the required individuals.

24 (d) The state board shall modify the Standards for Accreditation of
25 Arkansas Public Schools and School Districts issued by the ~~department~~
26 division as may be required by this section.

27 (e) It is the responsibility of the ~~department~~ division to receive and
28 maintain records of instructional hours of Tier I training obtained under
29 this section.

30 (f) The state board is authorized to promulgate rules and regulations
31 consistent with the provisions of this section.

32

33 SECTION 1669. Arkansas Code § 6-20-2206(a), concerning miscellaneous
34 provisions regarding the Department of Education, is amended to read as
35 follows:

36 (a) If the ~~Department of Education~~ Division of Elementary and

1 Secondary Education determines that an overpayment has been made to a school
2 district, open-enrollment public charter school, or education service
3 cooperative in any funding category authorized by law, the ~~department~~
4 division is authorized to withhold the overpayment from future funding of the
5 school district, open-enrollment public charter school, or education service
6 cooperative and is authorized to transfer the amount withheld for the
7 overpayment to the line item appropriation from which the overpayment was
8 initially made.

9
10 SECTION 1670. Arkansas Code § 6-20-2206(c)(5)(B), concerning
11 miscellaneous provisions regarding the Department of Education, is amended to
12 read as follows:

13 (B) Pupil attendance records shall be kept according to
14 law and regulations on paper or electronic forms either furnished or approved
15 by the ~~department~~ division.

16
17 SECTION 1671. Arkansas Code § 6-20-2207(b)(1) and (2), concerning the
18 rule-making authority of the State Board of Education, are amended to read as
19 follows:

20 (b)(1)(A) The state board shall amend the rules, and the ~~Department of~~
21 Education Division of Elementary and Secondary Education shall amend the
22 Arkansas Handbook provided in subsection (a) of this section as necessary.

23 (B) The amendments, annual revisions, and financial
24 accounting updates to the Arkansas Handbook shall be developed with
25 representatives from the Arkansas Association of School Business Officials,
26 the education service cooperatives, and other school district officials as
27 designated by the ~~department~~ division.

28 (2) Before making an amendment to the Arkansas Handbook, the
29 ~~department~~ division shall provide written notice via a Commissioner of
30 Elementary and Secondary Education memo to the school districts, open-
31 enrollment public charter schools, and education service cooperatives.

32
33 SECTION 1672. Arkansas Code § 6-20-2208(c)(2)(A), concerning the
34 monitoring of expenditures by school districts, is amended to read as
35 follows:

36 (2)(A) Expend the sums allocated to the school district under §

1 6-20-2305(b) for salaries and other instructional aid components to benefit
2 students in the special needs categories within the school district unless
3 other expenditures are allowed by law or rule of the State Board of Education
4 or the ~~Department of Education~~ Division of Elementary and Secondary
5 Education.

6
7 SECTION 1673. Arkansas Code § 6-20-2208(d)(1), concerning the
8 monitoring of expenditures by school districts, is amended to read as
9 follows:

10 (d)(1) During the appropriate Arkansas public school computer network
11 reporting cycle each year, each school district shall submit appropriate data
12 to the ~~department~~ division establishing the school district's compliance with
13 this section.

14
15 SECTION 1674. Arkansas Code § 6-20-2208(d)(4), concerning the
16 monitoring of expenditures by school districts, is amended to read as
17 follows:

18 (4) Reports for each school district shall be developed by the
19 ~~department~~ division and transmitted to the Governor, the Senate Committee on
20 Education, and the House Committee on Education.

21
22 SECTION 1675. Arkansas Code § 6-20-2210(a)(4), concerning the
23 limitation on fund balances, is amended to read as follows:

24 (4)(A) "Revenues" means the same as defined in the latest
25 version of the Arkansas Financial Accounting Handbook established by the
26 ~~Department of Education~~ Division of Elementary and Secondary Education under
27 § 6-20-2203.

28
29 SECTION 1676. Arkansas Code § 6-20-2210(a)(4)(B)(viii)(a) and (b),
30 concerning the limitation on fund balances, are amended to read as follows:

31 (a) The latest version of the Arkansas
32 Financial Accounting Handbook established by the ~~department~~ division under §
33 6-20-2203; or

34 (b) Rules promulgated by the ~~department~~
35 division; and

36

1 SECTION 1677. Arkansas Code § 6-20-2210(d)-(f), concerning the
2 limitation on fund balances, are amended to read as follows:

3 (d)(1) The ~~department~~ division shall:

4 (A) Monitor on a yearly basis each public school
5 district's compliance with the requirements of this section; and

6 (B) Withhold subsequent state funding from a public school
7 district in the amounts under subdivision (d)(2) of this section for each
8 year the public school district fails to make the required reduction.

9 (2) If a public school district fails to reduce every year
10 within the five-year period its net legal balance by twenty percent (20%) of
11 the total required reduction under subsection (b) of this section, the
12 ~~department~~ division shall withhold subsequent state funding from that public
13 school district in an amount equal to the amount the public school district
14 failed to reduce its net legal balance for that year.

15 (e)(1) Under an unusual and limited circumstance, including without
16 limitation an increase in one-time funds, a public school district may
17 request that the ~~department~~ division waive the requirements of this section.

18 (2) A public school district seeking a waiver shall file a
19 waiver request with the Commissioner of Elementary and Secondary Education,
20 accompanied by a resolution adopted by the public school district's board of
21 directors, describing the unusual and limited circumstances.

22 (3) The commissioner may grant a waiver request under this
23 subsection if the commissioner finds that the request is necessary based upon
24 the unusual and limited circumstances.

25 (f) The ~~department~~ division shall promulgate rules to implement this
26 section.

27
28 SECTION 1678. Arkansas Code § 6-20-2303(4), concerning the definition
29 of "classroom teacher" under the Public School Funding Act of 2003, is
30 amended to read as follows:

31 (4) "Classroom teacher" means:

32 (A) An individual who is required to hold a teaching
33 license from the ~~Department of Education~~ Division of Elementary and Secondary
34 Education and who is engaged directly in instruction with students in a
35 classroom setting for more than seventy percent (70%) of the individual's
36 contracted time;

- 1 (B) A guidance counselor; or
2 (C) A librarian;

3

4 SECTION 1679. Arkansas Code § 6-20-2303(13)(A), concerning the
5 definition of "national school lunch students" under the Public School
6 Funding Act of 2003, is amended to read as follows:

7 (13)(A) "National school lunch students" means those students or
8 the percentage of enrolled students from low socioeconomic backgrounds as
9 indicated by eligibility for free or reduced-price meals under the National
10 School Lunch Act, 42 U.S.C. § 1751 et seq., as determined on October 1 of
11 each previous school year and submitted to the ~~Department of Education~~
12 Division of Elementary and Secondary Education, unless the school district is
13 identified by the ~~Department of Education~~ Division of Elementary and
14 Secondary Education as participating in the special assistance certification
15 and reimbursement alternative implemented under 42 U.S.C. § 1759a.

16

17 SECTION 1680. Arkansas Code § 6-20-2303(17), concerning the definition
18 of "quarterly average daily membership" under the Public School Funding Act
19 of 2003, is amended to read as follows:

20 (17) "Quarterly average daily membership" means the average
21 daily membership for one (1) quarter of a school year used for calculating
22 student growth funding and as determined by rule established by the
23 ~~Department of Education~~ Division of Elementary and Secondary Education;

24

25 SECTION 1681. Arkansas Code § 6-20-2304(b)(1), concerning regulations
26 and access to information on legislation by the State Board of Education, is
27 amended to read as follows:

28 (1) Including a link to the information on the ~~Department of~~
29 ~~Education~~ Division of Elementary and Secondary Education website; and

30

31 SECTION 1682. Arkansas Code § 6-20-2305(a)(1)(B), concerning school
32 funding, is amended to read as follows:

33 (B) The ~~Department of Education~~ Division of Elementary and
34 Secondary Education shall distribute state foundation funding aid to each
35 school district in twelve (12) monthly payments.

36

1 SECTION 1683. Arkansas Code § 6-20-2305(a)(4), concerning school
2 funding, is amended to read as follows:

3 (4)(A)(i) Except as provided in subdivisions (a)(4)(C) and (D)
4 of this section, by the end of each school fiscal year, for a school district
5 whose net revenues are less than the sum of ninety-eight percent (98%) of the
6 uniform rate of tax multiplied by the property assessment of the school
7 district, the ~~Department of Education~~ Division of Elementary and Secondary
8 Education shall distribute to the school district the difference between:

9 (a) The net revenues distributed to the school
10 district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year
11 immediately preceding the current school year; and

12 (b) The sum of ninety-eight percent (98%) of
13 the uniform rate of tax multiplied by the property assessment of the school
14 district.

15 (ii) The ~~Department of Education~~ Division of
16 Elementary and Secondary Education may distribute to the school district a
17 lesser amount than required under subdivisions (a)(4)(A)(i)(a) and (b) of
18 this section if after the lesser amount is distributed the school district
19 will receive the foundation funding amount under § 6-20-2305(a).

20 (B) For a school district whose net revenues are more than
21 the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied
22 by the property assessment of the school district, the ~~Department of~~
23 ~~Education~~ Division of Elementary and Secondary Education, under the authority
24 of § 6-20-2306, shall recoup from the school district an amount equal to the
25 difference between:

26 (i) The net revenues of the school district; and

27 (ii) The sum of ninety-eight percent (98%) of the
28 uniform rate of tax multiplied by the property assessment of the school
29 district.

30 (C) The ~~Department of Education~~ Division of Elementary and
31 Secondary Education shall not distribute to a school district the funds under
32 subdivision (a)(4)(A)(i) of this section if, regardless of the school
33 district's tax collection rate, the school district's net revenues plus
34 miscellaneous funds calculated under § 6-20-2308 meet or exceed the
35 foundation funding amount set forth in § 6-20-2305(a).

36 (D)(i) A country treasurer shall submit annually to the

1 ~~Department of Education~~ Division of Elementary and Secondary Education an
2 annual summary report of all proceeds generated from ad valorem taxes and
3 distributed by the county to a school district for the period beginning
4 January 1 and ending on December 31 of the preceding calendar year to verify
5 the receipt of revenues under § 26-80-101(b)(4)(A)(ii).

6 (ii)(a) The ~~Department of Education~~ Division of
7 Elementary and Secondary Education may adjust data appropriately if it
8 determines that irregular distributions by a county treasurer of excess
9 commissions cause a school district's property tax collection rate from the
10 uniform rate of tax to exceed ninety-eight percent (98%).

11 (b) The ~~Department of Education~~ Division of
12 Elementary and Secondary Education may adjust the uniform rate of tax from an
13 irregular distribution to an amount not in excess of ninety-eight percent
14 (98%) and apply the excess distribution amount the following school year.

15 (iii) Evidence of overlapping revenue reporting or
16 irregular distributions shall be provided in the form required by the
17 ~~Department of Education~~ Division of Elementary and Secondary Education.

18
19 SECTION 1684. Arkansas Code § 6-20-2305(b)(4)(B)(ii)(a), concerning
20 school funding, is amended to read as follows:

21 (ii)(a) If a school district will receive in the
22 current school year national school lunch state categorical funding under
23 subdivision (b)(4)(A) of this section that is based on a different per-
24 student amount of national school lunch state categorical funding than the
25 school district received in the immediately preceding school year, due to a
26 percentage change in national school lunch students, the ~~department~~ Division
27 of Elementary and Secondary Education shall adjust the funding to the school
28 district in a transitional three-year period.

29
30 SECTION 1685. Arkansas Code § 6-20-2305(b)(4)(B)(iii)(a), concerning
31 school funding, is amended to read as follows:

32 (iii)(a) The ~~Department of Education~~ Division of
33 Elementary and Secondary Education shall establish rules to implement the
34 transitional national school lunch state categorical funding provided in
35 subdivision (b)(4)(B)(ii) of this section.

36

1 SECTION 1686. Arkansas Code § 6-20-2305(b)(4)(B)(v)(b) and (c),
2 concerning school funding, are amended to read as follows:

3 (b) The State Board of Education shall
4 establish rules to be used by the ~~Department of Education~~ Division of
5 Elementary and Secondary Education to determine:

6 (1) The amount of growth necessary to
7 qualify as significant growth;

8 (2) The expected increase in the number
9 of national school lunch students based on the expected increase in enrolled
10 students; and

11 (3) Which school districts have
12 experienced a significant growth in enrolled students as necessary to qualify
13 for funding under this subdivision (b)(4)(B)(v).

14 (c) The ~~Department of Education~~ Division of
15 Elementary and Secondary Education shall not be required to adjust or fund a
16 school district's national school lunch students based on the current year's
17 number of national school lunch students enrolled in the school district or
18 the average growth of students in the school district.

19
20 SECTION 1687. Arkansas Code § 6-20-2305(b)(4)(C)(i)(b)(16), concerning
21 school funding, is amended to read as follows:

22 (16) The College and Career Coaches
23 Program, as administered by the ~~Department~~ Division of Career and Technical
24 Education under § 6-1-601 et seq.; and

25
26 SECTION 1688. Arkansas Code § 6-20-2305(b)(4)(C)(iv)(a), concerning
27 school funding, is amended to read as follows:

28 (iv)(a) Upon review of the school district's school-
29 level improvement plan, if the Commissioner of Elementary and Secondary
30 Education determines that the school district has met the needs of students
31 in the school district for whom the funding for additional educational
32 categories under this subsection is provided, has met the requirements of
33 subdivisions (b)(4)(C)(ii) and (iii) of this section, and has prudently
34 managed its resources, the commissioner shall give written approval of the
35 detailed planned flexible use of excess national school lunch student
36 categorical funds provided to the school district.

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SECTION 1689. Arkansas Code § 6-20-2305(b)(4)(C)(vi)-(viii), concerning school funding, are amended to read as follows:

(vi) Notwithstanding any other provision of law, if the ~~Department of Education~~ Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(vii) The ~~Department of Education~~ Division of Elementary and Secondary Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(viii)(a) By September 15 of each school year, a school district shall submit to the ~~Department of Education~~ Division of Elementary and Secondary Education a report for the immediately preceding school year listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the ~~Department of Education~~ Division of Elementary and Secondary Education on the use of funds allocated under this subdivision (b)(4).

(b) The ~~Department of Education~~ Division of Elementary and Secondary Education shall develop appropriate reporting forms for use by school districts to comply with subdivision (b)(4)(C)(viii)(a) of this section.

SECTION 1690. Arkansas Code § 6-20-2305(b)(4)(C)(x)-(xii), concerning school funding, are amended to read as follows:

(x) Each school district shall submit to the ~~Department of Education~~ Division of Elementary and Secondary Education a report listing each program and purpose upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the ~~Department of Education~~ Division of Elementary and Secondary Education concerning the receipt and use of funds allocated under this subdivision (b)(4).

(xi) No provision of subdivision (b)(4)(C)(ix) of

1 this section shall be deemed to prohibit a school district from participating
2 in the provisions of subdivisions (b)(4)(C)(ii)-(viii) of this section.

3 (xii) ~~The Department of Education~~ Division of
4 Elementary and Secondary Education shall promulgate rules and develop
5 appropriate reporting forms for use by school districts to comply with this
6 subdivision (b)(4)(C).

7
8 SECTION 1691. Arkansas Code § 6-20-2305(b)(4)(D), concerning school
9 funding, is amended to read as follows:

10 (D)(i) By the end of each school year, each school
11 district shall submit to the ~~Department of Education~~ Division of Elementary
12 and Secondary Education a report listing each program upon which funds
13 allocated under this subdivision (b)(4) were expended, the amount expended,
14 and any other information required by the ~~Department of Education~~ Division of
15 Elementary and Secondary Education.

16 (ii) ~~The Department of Education~~ Division of
17 Elementary and Secondary Education shall develop appropriate reporting forms
18 for use by school districts.

19
20 SECTION 1692. Arkansas Code § 6-20-2305(b)(4)(E)(i), concerning school
21 funding, is amended to read as follows:

22 (E)(i) ~~The Department of Education~~ Division of Elementary
23 and Secondary Education shall provide a report on the impact of national
24 school lunch student categorical funding provided under this subdivision
25 (b)(4) on closing the achievement gap to the House Committee on Education and
26 the Senate Committee on Education by May 31 each even-numbered year,
27 beginning in 2010.

28
29 SECTION 1693. Arkansas Code § 6-20-2305(b)(4)(F)(iii)(a), concerning
30 school funding, is amended to read as follows:

31 (iii)(a) Under an unusual and limited circumstance,
32 including without limitation an increase in one-time funds or an unexpected
33 decrease in school district revenues during a given year, a school district
34 may request that the ~~Department of Education~~ Division of Elementary and
35 Secondary Education waive the requirements of this subdivision (b)(4)(F).

36

1 SECTION 1694 Arkansas Code § 6-20-2305(b)(4)(F)(v), concerning school
2 funding, is amended to read as follows:

3 (v)(a) The ~~Department of Education~~ Division of
4 Elementary and Secondary Education shall monitor on a yearly basis each
5 school district's compliance with the requirements of this subdivision
6 (b)(4)(F).

7 (b) If a school district fails to comply with
8 the requirements of this subdivision (b)(4)(F) during a school year, the
9 ~~Department of Education~~ Division of Elementary and Secondary Education may in
10 the following school year withhold from that school district's national
11 school lunch state categorical funding allocation an amount equal to the
12 amount required to be spent by the school district in order to be in
13 compliance with the requirements of this subdivision (b)(4)(F).

14 (c) The ~~Department of Education~~ Division of
15 Elementary and Secondary Education may redistribute amounts withheld under
16 this subdivision (b)(4)(F) to other school districts entitled to receive
17 national school lunch state categorical funding allocations.
18

19 SECTION 1695. Arkansas Code § 6-20-2305(b)(5)(C), concerning school
20 funding, is amended to read as follows:

21 (C)(i) Additional funding provided for professional
22 development above the amount in subdivision (b)(5)(A) of this section shall
23 be used by the ~~Department of Education~~ Division of Elementary and Secondary
24 Education for the development and administration of professional learning
25 communities for the benefit of public school districts.

26 (ii)(a) The ~~Department of Education~~ Division of
27 Elementary and Secondary Education shall promulgate rules to administer the
28 additional professional development funding under subdivision (b)(5)(C)(i) of
29 this section.

30 (b) The ~~Department of Education~~ Division of
31 Elementary and Secondary Education may partner with or choose a person, firm,
32 corporation, or education service cooperative to provide the knowledge,
33 skills, experience, and expertise for the development of a research-based
34 process for the implementation of professional learning communities.
35

36 SECTION 1696. Arkansas Code § 6-20-2305(e)(1)(C), concerning school

1 funding, is amended to read as follows:

2 (C) If the ~~Department of Education~~ Division of Elementary
3 and Secondary Education determines that a school district's expenditure of
4 funds allocated under subsection (b) of this section would result in the
5 school district's losing funding under any federal law, then the funds
6 allocated to a school district under subsection (b) of this section may be
7 expended for other academic programs or salaries as permitted by the
8 ~~Department of Education~~ Division of Elementary and Secondary Education.

9

10 SECTION 1697. Arkansas Code § 6-20-2305(e)(4), concerning school
11 funding, is amended to read as follows:

12 (4)(A) The ~~Department of Education~~ Division of Elementary and
13 Secondary Education shall monitor on a yearly basis each school district's
14 compliance with the requirements of this subsection.

15 (B) If a school district fails to comply with the
16 requirements of this subsection during a school year, the ~~Department of~~
17 Education Division of Elementary and Secondary Education may in the following
18 school year withhold from that school district's categorical funding
19 allocation an amount equal to the amount required to be spent by the school
20 district in order to be in compliance with the requirements of this
21 subsection.

22 (C) The ~~Department of Education~~ Division of Elementary and
23 Secondary Education may redistribute amounts withheld under this subsection
24 to other school districts entitled to receive categorical funding
25 allocations.

26

27 SECTION 1698. Arkansas Code § 6-20-2305(f)(2), concerning school
28 funding, is amended to read as follows:

29 (2) The school district shall maintain records and make reports
30 relative to attendance, receipts, and disbursements and other reports as
31 required by the ~~Department of Education~~ Division of Elementary and Secondary
32 Education for the administration of this subchapter;

33

34 SECTION 1699. Arkansas Code § 6-20-2305(f)(5)(B), concerning school
35 funding, is amended to read as follows:

36 (B) The records shall be kept according to law and

1 regulations on paper or electronic forms either furnished or approved by the
2 ~~Department of Education~~ Division of Elementary and Secondary Education.

3
4 SECTION 1700. Arkansas Code § 6-20-2305(g), concerning school funding,
5 is amended to read as follows:

6 (g)(1) By the end of each school year, each school district shall
7 submit to the ~~Department of Education~~ Division of Elementary and Secondary
8 Education a report listing each program upon which funds allocated under
9 subsection (b) of this section were expended, the amount expended, and any
10 other information required by the ~~Department of Education~~ Division of
11 Elementary and Secondary Education.

12 (2) The ~~Department of Education~~ Division of Elementary and
13 Secondary Education shall develop appropriate reporting forms for use by
14 school districts.

15
16 SECTION 1701. Arkansas Code § 6-20-2306 is amended to read as follows:

17 6-20-2306. ~~Department of Education~~ Division of Elementary and
18 Secondary Education to provide funding – Adjustments for overpayments.

19 (a) If the ~~Department of Education~~ Division of Elementary and
20 Secondary Education determines that an overpayment has been made to a school
21 district under any appropriation authorized by this subchapter, the
22 ~~department~~ division may:

- 23 (1) Withhold the overpayment from subsequent state funding;
24 (2) Transfer the amount withheld for the overpayment to the line
25 item appropriation from which the overpayment was initially made; or
26 (3) Request a refund from the school district in the amount of
27 the overpayment.

28 (b) The school district shall comply as directed by the ~~department~~
29 division.

30
31 SECTION 1702. The introductory language of Arkansas Code § 6-20-
32 2308(a), concerning the calculation of miscellaneous funds, is amended to
33 read as follows:

34 (a) For the purpose of making an initial calculation of state
35 foundation funding aid, the ~~Department of Education~~ Division of Elementary
36 and Secondary Education shall calculate the miscellaneous funds of a school

1 district as:

2

3 SECTION 1703. The introductory language of Arkansas Code § 6-20-
4 2308(b)(1), concerning the calculation of miscellaneous funds, is amended to
5 read as follows:

6 (b)(1) Except as provided under subdivision (b)(2) of this section,
7 for a school district that receives state foundation funding aid and receives
8 an aggregate amount of miscellaneous funds during the calendar year in which
9 the current school fiscal year began that is less than the aggregate amount
10 of miscellaneous funds the school district received in the calendar year
11 immediately preceding the beginning of the current school fiscal year, by the
12 end of the school fiscal year the ~~department~~ division shall distribute to the
13 school district an amount equal to the difference between:

14

15 SECTION 1704. The introductory language of Arkansas Code § 6-20-
16 2308(c)(1), concerning the calculation of miscellaneous funds, is amended to
17 read as follows:

18 (c)(1) Beginning with the 2014-2015 school fiscal year, the ~~department~~
19 division shall recoup an overpayment of state funding under the authority
20 provided by § 6-20-2306 for a school district that receives:

21

22 SECTION 1705. The introductory language of Arkansas Code § 6-20-
23 2308(c)(2), concerning the calculation of miscellaneous funds, is amended to
24 read as follows:

25 (2) The ~~department~~ division shall recoup from the school
26 district an amount equal to the difference between:

27

28 SECTION 1706. The introductory language of Arkansas Code § 6-20-2309
29 is amended to read as follows:

30 For the 2017-2018 school year and the 2018-2019 school year, in
31 addition to the foundation funding provided to a school district under § 6-
32 20-2305(a)(2), the ~~Department of Education~~ Division of Elementary and
33 Secondary Education shall distribute enhanced transportation funding to
34 school districts each school year in the following amounts:

35

36 SECTION 1707. Arkansas Code § 6-20-2503(b)(2)(B), concerning bonded

1 debt assistance, is amended to read as follows:

2 (B) The annual amount due on a fiscal year basis from the
3 school district in accordance with the principal and interest payment
4 schedule in effect and on file with the ~~Department of Education~~ Division of
5 Elementary and Secondary Education on January 1, 2005, for the outstanding
6 bonded indebtedness identified under subdivision (b)(2)(A) of this section;
7 and

8

9 SECTION 1708. Arkansas Code § 6-20-2503(b)(3)(A)(i)(a), concerning
10 bonded debt assistance, is amended to read as follows:

11 (i)(a) For the year that financial assistance under
12 this section will be provided, ascertain the scheduled debt payment on a
13 fiscal year basis from the principal and interest payment schedule in effect
14 and on file with the ~~department~~ Division of Elementary and Secondary
15 Education on January 1, 2005, and reduce the amount of the payment by ten
16 percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this
17 section.

18

19 SECTION 1709. Arkansas Code § 6-20-2503(c)(1)(B), concerning bonded
20 debt assistance, is amended to read as follows:

21 (B) If a school district qualifies for bonded debt
22 assistance under this section, the amount of bonded debt assistance under
23 this section shall not be altered or reduced as a result of refunding the
24 bonds that were issued and outstanding as of January 1, 2005, and the bonded
25 debt assistance shall continue after the refunding based on the principal and
26 interest payment schedule in effect and on file with the ~~department~~ Division
27 of Elementary and Secondary Education on January 1, 2005.

28

29 SECTION 1710. Arkansas Code § 6-20-2503(c)(2), concerning bonded debt
30 assistance, is amended to read as follows:

31 (2) Nothing in this subsection shall prevent the annual
32 adjustment of bonded debt assistance under this section in accordance with
33 annual variations in the state wealth index and the school district's
34 principal and interest payment schedule in effect and on file with the
35 ~~department~~ Division of Elementary and Secondary Education on January 1, 2005.

36

1 SECTION 1711. Arkansas Code § 6-20-2503(g), concerning bonded debt
2 assistance, is amended to read as follows:

3 (g) Within thirty (30) days after the satisfaction of a school
4 district's outstanding bonded indebtedness in existence as of January 1,
5 2005, the school district shall notify the ~~department~~ Division of Elementary
6 and Secondary Education that the school district's outstanding bonded
7 indebtedness in existence as of January 1, 2005, has been satisfied, which
8 shall include defeasance, but shall exclude refunding.

9
10 SECTION 1712. Arkansas Code § 6-20-2507(b), concerning the creation of
11 the Academic Facilities Partnership Program, is amended to read as follows:

12 (b)(1) In order to apply for state financial participation in a new
13 construction project, a school district shall provide the ~~division~~ Division
14 of Public School Academic Facilities and Transportation with a detailed
15 narrative, description, and justification for the project, a drawing, and
16 evidence of:

17 (A) Preparation for the new construction project as
18 demonstrated by inclusion of the new construction project in the school
19 district's facilities master plan;

20 (B)(i) The adoption of a resolution certifying to the
21 ~~division~~ Division of Public School Academic Facilities and Transportation the
22 school district's dedication of local resources to meet the school district's
23 share of financial participation in the new construction project.

24 (ii) The resolution shall specify the approximate
25 date that the board of directors of the school district intends to seek
26 elector approval of any bond or tax measures or to apply other local
27 resources to pay the school district's share of financial participation in
28 the new construction project;

29 (C)(i) The total estimated cost of the new construction
30 project that shall be a minimum of three hundred dollars (\$300) per student
31 or one hundred fifty thousand dollars (\$150,000), whichever is less.

32 (ii) The ~~division~~ Division of Public School Academic
33 Facilities and Transportation may waive the minimum requirement under
34 subdivision (b)(1)(C)(i) of this section upon a recommendation by the
35 Director of the Division of Public School Academic Facilities and
36 Transportation to the Commission for Arkansas Public School Academic

1 Facilities and Transportation for the minimum to be waived for cause and a
2 majority of the commission votes to support the waiver;

3 (D) The new construction project's conformance with sound
4 educational practices;

5 (E) The new construction project's compliance with current
6 academic facilities standards, including without limitation, appropriate
7 space utilization of the applicable school in the district as determined by
8 the ~~division~~ Division of Public School Academic Facilities and
9 Transportation;

10 (F) The allocation of project costs between new
11 construction activities and maintenance, repair, and renovation activities if
12 the new construction project includes improvements that could be classified
13 as maintenance, repair, and renovation; and

14 (G) How the new construction project supports the prudent
15 and resourceful expenditure of state funds and improves the school district's
16 ability to deliver an adequate and equitable education to public school
17 students in the district.

18 (2)(A) Life cycle data is advisory only and shall not be
19 sufficient to support the approval of those items in the list of approved
20 projects or individual items within a project.

21 (B) The ~~division~~ Division of Public School Academic
22 Facilities and Transportation shall require independent proof of the failure
23 of the equipment or other item.

24
25 SECTION 1713. The introductory language of Arkansas Code § 6-20-
26 2507(c), concerning the creation of the Academic Facilities Partnership
27 Program, is amended to read as follows:

28 (c) The ~~division~~ Division of Public School Academic Facilities and
29 Transportation shall use criteria to evaluate a school district's application
30 for state financial participation in a new construction project, which shall
31 include, without limitation, the following:

32
33 SECTION 1714. Arkansas Code § 6-20-2507(d), concerning the creation of
34 the Academic Facilities Partnership Program, is amended to read as follows:

35 (d)(1) The ~~division~~ Division of Public School Academic Facilities and
36 Transportation shall notify the school district of the ~~division's~~ Division of

1 Public School Academic Facilities and Transportation's decision on the
2 application and, if applicable, the estimated amount of state financial
3 participation in the new construction project no later than May 1 of each
4 odd-numbered year.

5 (2) The ~~division's~~ Division of Public School Academic Facilities
6 and Transportation's notice of its decision on a school district's
7 application for state financial participation in a new construction project
8 shall include an explanation of the evaluative factors underlying the
9 decision of the ~~division~~ Division of Public School Academic Facilities and
10 Transportation to provide or not provide state financial participation in
11 support of the new construction project.

12 (3) The commission may withdraw committed funds if a school
13 district had funding made available on:

14 (A) July 1, 2006, and does not begin construction, as
15 evidenced by a signed construction contract, by January 31, 2010; or

16 (B) July 1, 2007, and does not begin construction, as
17 evidenced by a signed construction contract, by January 31, 2011.

18 (4) If a construction project has not begun as required under
19 subdivision (d)(3) of this section due to the failure of a school district to
20 raise the school district's share of the project cost due to a failed millage
21 election before June 1, 2009, the ~~division~~ Division of Public School Academic
22 Facilities and Transportation may exercise its authority under § 6-21-811.

23
24 SECTION 1715. Arkansas Code § 6-20-2507(e)(1), concerning the creation
25 of the Academic Facilities Partnership Program, is amended to read as
26 follows:

27 (e)(1) If the ~~division~~ Division of Public School Academic Facilities
28 and Transportation determines that the new construction project is eligible
29 for state financial participation, the ~~division~~ Division of Public School
30 Academic Facilities and Transportation and the school district shall enter
31 into an agreement specifying the terms of the state's financial participation
32 and the conditions that must be satisfied by the school district.

33
34 SECTION 1716. Arkansas Code § 6-20-2507(e)(2)(D) and (E), concerning
35 the creation of the Academic Facilities Partnership Program, are amended to
36 read as follows:

1 (D) Provide that changes to the plans for the new
2 construction project shall be made in consultation with the ~~division~~ Division
3 of Public School Academic Facilities and Transportation;

4 (E) Provide that the ~~division~~ Division of Public School
5 Academic Facilities and Transportation or any person acting on behalf of the
6 ~~division~~ Division of Public School Academic Facilities and Transportation may
7 conduct on-site inspections of the new construction project as frequently as
8 the ~~division~~ Division of Public School Academic Facilities and Transportation
9 deems necessary to assure the prudent and resourceful expenditure of state
10 funds with regard to public school academic facilities;

11
12 SECTION 1717. Arkansas Code § 6-20-2507(f), concerning the creation of
13 the Academic Facilities Partnership Program, is amended to read as follows:

14 (f)(1)(A) If a school district qualifies for state financial
15 participation under this section, the ~~division~~ Division of Public School
16 Academic Facilities and Transportation shall certify the amount of state
17 financial participation to the commission.

18 (B) The amount of state financial participation under this
19 section is limited to the amount resulting from the application of the
20 academic facilities wealth index to the project cost promulgated by the
21 commission to calculate the cost necessary to bring the academic facility
22 into compliance with the Arkansas Public School Academic Facility Manual
23 under § 6-21-809.

24 (2)(A) The commission shall certify the amount to the ~~Department~~
25 ~~of Education~~ Division of Elementary and Secondary Education for payment, less
26 any withholding or reduction imposed by the commission under § 6-21-114(d)
27 for a school district's failure to comply with the commission's insurance
28 requirements.

29 (B) For tracking purposes, the school district shall
30 account for the funds received as state financial participation under this
31 section as restricted funds and shall account for the funds in accordance
32 with provisions of law, including without limitation, the Arkansas
33 Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et
34 seq., and rules established by the State Board of Education and the
35 commission.

36

1 SECTION 1718. The introductory language of Arkansas Code § 6-20-
2 2508(c), concerning the creation of the Academic Facilities Catastrophic
3 Program, is amended to read as follows:

4 (c) As part of its application for state financial participation in a
5 catastrophic project, the school district shall provide the ~~division~~ Division
6 of Public School Academic Facilities and Transportation with evidence of:

7
8 SECTION 1719. Arkansas Code § 6-20-2508(d)-(f), concerning the
9 creation of the Academic Facilities Catastrophic Program, are amended to read
10 as follows:

11 (d)(1) The ~~division~~ Division of Public School Academic Facilities and
12 Transportation shall evaluate a school district's application for
13 catastrophic assistance and may conduct an on-site inspection before making a
14 decision on the application as it deems necessary.

15 (2) The ~~division~~ Division of Public School Academic Facilities
16 and Transportation shall notify the school district of the ~~division's~~
17 Division of Public School Academic Facilities and Transportation's decision
18 on the application and, if applicable, the amount of state financial
19 participation. The ~~division~~ Division of Public School Academic Facilities and
20 Transportation shall base its decision on several factors, including, without
21 limitation:

22 (A) Compliance with appropriate academic facility
23 standards, including, without limitation, appropriate space utilization;

24 (B) The amount and availability of insurance or other
25 public or private emergency assistance;

26 (C) The academic facilities wealth index of the school
27 district; and

28 (D) The prudent and resourceful expenditure of state funds
29 with regard to public school academic facilities.

30 (e)(1)(A) If a school district qualifies for state financial
31 participation under this section, the ~~division~~ Division of Public School
32 Academic Facilities and Transportation shall certify the amount of state
33 financial participation to the Commission for Arkansas Public School Academic
34 Facilities and Transportation.

35 (B) The amount of state financial participation under this
36 section shall not exceed the amount resulting from the application of the

1 academic facilities wealth index to the cost necessary to bring the academic
2 facility into compliance with the Arkansas Public School Academic Facility
3 Manual, less any withholding or reduction imposed by the commission under §
4 6-21-114(d) for a school district's failure to comply with the commission's
5 insurance requirements, including without limitation, the failure to carry
6 replacement cost coverage, if applicable, on all buildings and facilities.

7 (2)(A) The commission shall certify the amount to the ~~Department~~
8 ~~of Education~~ Division of Elementary and Secondary Education for payment.

9 (B) For tracking purposes, the school district shall
10 account for the funds received as a state financial participation under this
11 section as restricted funds and shall account for the funds in accordance
12 with provisions of law, including, without limitation, the Arkansas
13 Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et
14 seq., and rules established by the State Board of Education and the
15 commission.

16 (f) Every effort shall be made to conform a catastrophic project to
17 current academic facilities standards, including appropriate space
18 utilization requirements, unless in the judgment of the ~~division~~ Division of
19 Public School Academic Facilities and Transportation it is impractical to
20 conform the catastrophic project to current standards.

21
22 SECTION 1720. Arkansas Code § 6-20-2511(b), concerning high-growth
23 school districts, is amended to read as follows:

24 (b) There is established the Academic Facilities High-Growth School
25 District Loan Program under which the ~~Department of Education~~ Division of
26 Elementary and Secondary Education shall provide an interest-free loan to a
27 high-growth school district in which the mills required to service the bonded
28 indebtedness incurred for academic facilities ~~exceeds~~ exceed the maximum
29 expected millage for the high-growth school district.

30
31 SECTION 1721. Arkansas Code § 6-20-2511(d)(3)(C), concerning high-
32 growth school districts, is amended to read as follows:

33 (C) Shall not otherwise change the amount of revenues
34 available to repay the loan without the prior approval of the ~~department~~
35 Division of Elementary and Secondary Education.

36

1 SECTION 1722. Arkansas Code § 6-20-2511(e) and (f), concerning high-
2 growth school districts, are amended to read as follows:

3 (e) Within a reasonable time after its receipt, each application under
4 subsection (c) of this section shall be examined by the ~~department~~ Division
5 of Elementary and Secondary Education in accordance with rules established by
6 the State Board of Education as to the accuracy of the answers contained
7 therein.

8 (f)(1) After considering the merits of each application, the
9 ~~department~~ Division of Elementary and Secondary Education may, in its
10 discretion, approve the application for the full amount of the proposed loan,
11 approve the application for a loan of a lesser amount than the amount
12 requested, or disapprove the application.

13 (2) Before approving the application, the ~~department~~ Division of
14 Elementary and Secondary Education shall make a determination that the total
15 space available in the high-growth school district is less than the amount
16 needed to accommodate the growth of students.

17
18 SECTION 1723. Arkansas Code § 6-20-2516(f)-(i), concerning the
19 creation of the Academic Facilities Review Board, are amended to read as
20 follows:

21 (f) The ~~Department of Education~~ Division of Elementary and Secondary
22 Education shall provide staff support for the board's activities.

23 (g)(1) Members of the board shall serve without pay.

24 (2) Members of the board may receive expense reimbursement in
25 accordance with § 25-16-902, to be paid by the ~~department~~ Division of
26 Elementary and Secondary Education to the extent money is available for that
27 purpose.

28 (h) The board shall establish policies and procedures for conducting
29 hearings and appeals.

30 (i)(1) Following the hearing at which all testimony and evidence are
31 presented, the board shall make a final determination accepting, rejecting,
32 or modifying the determination of the ~~division~~ Division of Public School
33 Academic Facilities and Transportation.

34 (2) Within ten (10) business days, the board shall provide to
35 the appellant public school district and to the ~~division~~ Division of Public
36 School Academic Facilities and Transportation a notice of the board's final

1 determination.

2 (3)(A) If the board's final determination will result in a
3 greater level of state financial participation in a project than previously
4 authorized by the ~~division~~ Division of Public School Academic Facilities and
5 Transportation, the board's final determination shall be reviewed by the
6 commission in accordance with procedures developed by the commission.

7 (B) A decision of the commission resulting from a review
8 of a decision of the board under this section is final and is not subject to:

- 9 (i) Further appeal to the commission;
10 (ii) Request for rehearing by the commission; or
11 (iii) Petition for judicial review under the
12 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

13

14 SECTION 1724. Arkansas Code § 6-20-2517(b)(13)(B), concerning nursing
15 centers in new schools, is amended to read as follows:

16 (B) The ~~Department of Education~~ Division of Elementary and
17 Secondary Education may purchase appropriate software that is accessible to a
18 school district depending on the availability of funding;

19

20 SECTION 1725. The introductory language of Arkansas Code § 6-21-
21 106(g), concerning fire hazard inspection at schools prior to closing for
22 breaks, is amended to read as follows:

23 (g) The chief executive officer of the fire department shall notify
24 the State Fire Marshal Enforcement Section of the ~~Department~~ Division of
25 Arkansas State Police and the ~~Department of Education~~ Division of Elementary
26 and Secondary Education if:

27

28 SECTION 1726. Arkansas Code § 6-21-112(e), concerning the Division of
29 Public School Academic Facilities and Transportation, is amended to read as
30 follows:

31 (e)(1) The ~~Director of the Department of Information Systems~~ Secretary
32 of the Department of Transformation and Shared Services shall assign one (1)
33 individual to serve as a technology liaison to the Division of Public School
34 Academic Facilities and Transportation.

35 (2) The ~~Director of the Department of Finance and Administration~~
36 Secretary of the Department of Transformation and Shared Services shall

1 assign one (1) individual from the staff of the Building Authority Division
2 ~~of the Department of Finance and Administration~~ to serve as a physical plant
3 liaison to the Division of Public School Academic Facilities and
4 Transportation.

5
6 SECTION 1727. Arkansas Code § 6-21-112(h), concerning the creation of
7 the Division of Public School Academic Facilities and Transportation, is
8 amended to read as follows:

9 (h) The ~~Department of Education~~ Division of Elementary and Secondary
10 Education shall coordinate and share certain administrative, custodial,
11 legal, internal finance, and other necessary personnel and responsibilities
12 to effectuate the daily operations of the Division of Public School Academic
13 Facilities and Transportation and the ~~Department~~ Division of Information
14 Systems.

15
16 SECTION 1728. Arkansas Code § 6-21-114(a)(1) and (2), concerning the
17 creation of the Commission for Arkansas Public School Academic Facilities and
18 Transportation, are amended to read as follows:

19 (1) The ~~Director~~ Secretary of the Department of Finance and
20 Administration;

21 (2) The Commissioner of Elementary and Secondary Education; and
22

23 SECTION 1729. Arkansas Code § 6-21-114(b)(1), concerning the creation
24 of the Commission for Arkansas Public School Academic Facilities and
25 Transportation, is amended to read as follows:

26 (b)(1) The members of the commission shall meet and organize
27 immediately after March 29, 2005. The Commissioner of Elementary and
28 Secondary Education shall be the chair of the commission.
29

30 SECTION 1730. Arkansas Code § 6-21-114(c), concerning the creation of
31 the Commission for Arkansas Public School Academic Facilities and
32 Transportation, is amended to read as follows:

33 (c) Staff support shall be provided by appropriate personnel of the
34 Department of Finance and Administration, the ~~Department of Education~~
35 Division of Elementary and Secondary Education, the Arkansas Development
36 Finance Authority, and the ~~division~~ Division of Public School Academic

1 Facilities and Transportation.

2
3 SECTION 1731. Arkansas Code § 6-21-114(d)(1), concerning the creation
4 of the Commission for Arkansas Public School Academic Facilities and
5 Transportation, is amended to read as follows:

6 (1) Oversee the operations of the ~~division~~ Division of Public
7 School Academic Facilities and Transportation;

8
9 SECTION 1732. Arkansas Code § 6-21-115(a) and (b), concerning the
10 name, operation, and director of the Division of Public School Academic
11 Facilities and Transportation, are amended to read as follows:

12 (a) The division established under § 6-21-112 within the Division of
13 Elementary and Secondary Education shall be known as the "Division of Public
14 School Academic Facilities and Transportation" ~~of the Department of~~
15 ~~Education.~~

16 (b)(1) The ~~division~~ Division of Public School Academic Facilities and
17 Transportation shall operate under the direction, control, and supervision of
18 the Commission for Arkansas Public School Academic Facilities and
19 Transportation.

20 (2) The ~~division~~ Division of Public School Academic Facilities
21 and Transportation shall not operate under the direction, control, and
22 supervision of the State Board of Education.

23
24 SECTION 1733. Arkansas Code § 6-21-303(c), concerning soliciting bids
25 for the procurement of commodities by the board of directors of each school
26 district, is amended to read as follows:

27 (c) The ~~Department of Education~~ Division of Elementary and Secondary
28 Education may grant a waiver of the requirements of subsection (b) of this
29 section if a school district requests a waiver and the school district is in
30 fiscal distress.

31
32 SECTION 1734. Arkansas Code § 6-21-304(a)(1)(B), concerning the manner
33 of making purchases by a school district, is amended to read as follows:

34 (B) Annually on July 1, the Commissioner of Elementary and
35 Secondary Education shall adjust the purchase price amounts under subdivision
36 (a)(1)(A) of this section by the percentage change in the Consumer Price

1 Index for All Urban Consumers or its successor.

2

3 SECTION 1735. Arkansas Code § 6-21-403(d), concerning the public
4 school district requirements for instruction material, is amended to read as
5 follows:

6 (d)(1)(A) The ~~Department of Education~~ Division of Elementary and
7 Secondary Education shall monitor to ensure that all school districts in
8 Arkansas comply with this section.

9 (B) The ~~department~~ division shall report in the annual
10 school performance report a school district that fails to provide
11 instructional materials, including the availability of any equipment needed
12 to access the instructional materials.

13 (2) The state board, through the ~~department~~ division, may
14 promulgate rules as may be necessary to carry out this subchapter and shall
15 report to the members of the House Committee on Education and Senate
16 Committee on Education annually any school district out of compliance by
17 November 1 of each year.

18

19 SECTION 1736. Arkansas Code § 6-21-410(a)(1), concerning illegal acts
20 involving school officials, is amended to read as follows:

21 (a)(1) It shall be illegal for the Commissioner of Elementary and
22 Secondary Education or any other employee connected with the ~~Department of~~
23 ~~Education~~ Division of Elementary and Secondary Education, any member of any
24 selecting committee, or any member of any school district board of directors
25 to accept or receive any money, gift, property, or favor whatsoever from any
26 person, firm, or corporation, or any agent thereof offering for sale any item
27 pursuant to this subchapter or from any person in any way interested in such
28 sale.

29

30 SECTION 1737. Arkansas Code § 6-21-410(c)(1), concerning illegal acts
31 involving school officials, is amended to read as follows:

32 (c)(1) It shall be illegal for any person directly or indirectly to
33 promise or offer to give or cause to be promised, offered, or given any
34 money, good, bribe, present, reward, or any valuable thing whatsoever to the
35 commissioner, his or her assistants, or any other employee of the ~~Department~~
36 ~~of Education~~ Division of Elementary and Secondary Education, the Director of

1 the ~~Department~~ Division of Career and Technical Education, his or her
2 assistants or any other employee of the ~~Department~~ Division of Career and
3 Technical Education, any school district board members, teachers, or other
4 persons with the intent of influencing their decisions on any questions,
5 matters, causes, or proceedings in the selection of instructional materials.

6
7 SECTION 1738. Arkansas Code § 6-21-811 is amended to read as follows:
8 6-21-811. Academic Facilities Distress Program.

9 (a) The Commission for Arkansas Public School Academic Facilities and
10 Transportation shall classify a public school or school district as being in
11 academic facilities distress if the Division of Public School Academic
12 Facilities and Transportation recommends and the commission concurs that the
13 public school or school district has engaged in actions or inactions that
14 result in any of the following:

15 (1) Any act or violation determined by the ~~division~~ Division of
16 Public School Academic Facilities and Transportation to jeopardize any
17 academic facility used by a public school or school district, including, but
18 not limited to:

19 (A) Material failure to properly maintain academic
20 facilities in accordance with this subchapter and rules adopted by the
21 commission;

22 (B) Material violation of local, state, or federal fire,
23 health, or safety code provisions or laws;

24 (C) Material violation of applicable building code
25 provisions or law;

26 (D) Material failure to provide timely and accurate
27 facilities master plans to the ~~division~~ Division of Public School Academic
28 Facilities and Transportation;

29 (E) Material failure to comply with state law governing
30 purchasing, bid requirements, or school-construction-related laws or rules in
31 relation to academic facilities projects;

32 (F) Material default on any school district debt
33 obligation; or

34 (G) Material failure to plan and progress satisfactorily
35 toward accomplishing the priorities established by the ~~division~~ Division of
36 Public School Academic Facilities and Transportation and the approved school

1 district's facilities master plan; and

2 (2) Any other condition of an academic facility or facilities in
3 a public school or school district that is determined by the ~~division~~
4 Division of Public School Academic Facilities and Transportation to have a
5 detrimental impact on educational services provided by that public school or
6 school district.

7 (b) The ~~division~~ Division of Public School Academic Facilities and
8 Transportation shall provide written notice, via certified mail, return
9 receipt requested, to the president of the board of directors and the
10 superintendent of the school district identified or containing a school
11 identified by the ~~division~~ Division of Public School Academic Facilities and
12 Transportation as being in facilities distress.

13 (c)(1) By August 31 of each year, the ~~division~~ Division of Public
14 School Academic Facilities and Transportation shall notify the superintendent
15 of a school district if the ~~division~~ Division of Public School Academic
16 Facilities and Transportation is aware the school district has experienced
17 two (2) or more indicators of facilities distress in one (1) school year that
18 the ~~division~~ Division of Public School Academic Facilities and Transportation
19 deems to be nonmaterial but that without intervention could place the
20 district in facilities distress.

21 (2) The superintendent of a school district shall report to the
22 ~~division~~ Division of Public School Academic Facilities and Transportation if
23 the superintendent is aware the school district has experienced two (2) or
24 more indicators of facilities distress in one (1) school year that the
25 superintendent deems to be nonmaterial but that without intervention could
26 place the district in facilities distress.

27 (3)(A) The ~~division~~ Division of Public School Academic
28 Facilities and Transportation and the superintendent shall review all data
29 related to the nonmaterial indicators of facilities distress.

30 (B)(i) Within thirty (30) days of the ~~division's~~ Division
31 of Public School Academic Facilities and Transportation's determination that
32 the school district may be experiencing facilities distress at a nonmaterial
33 level, the ~~division~~ Division of Public School Academic Facilities and
34 Transportation shall provide a notice to the school district's superintendent
35 and board of directors that:

36 (a) Describes the nonmaterial indicators of

1 facilities distress that could have a detrimental impact on educational
2 services provided by the affected public school or the school district if not
3 addressed; and

4 (b) Identifies the support available from the
5 ~~division~~ Division of Public School Academic Facilities and Transportation to
6 address each nonmaterial indicator of facilities distress.

7 (ii) The board of directors shall place on the
8 agenda for the next regularly scheduled meeting of the board of directors a
9 discussion of the notice of nonmaterial indicators of facilities distress.

10 (4)(A) If any condition of an academic facility raises a
11 significant health or safety issue, the superintendent of the school district
12 where the academic facility is located or the person responsible for the
13 management of the academic facility shall immediately notify the ~~division~~
14 Division of Public School Academic Facilities and Transportation and the
15 board of directors of the school district.

16 (B) The board of directors shall place on the agenda for
17 the next regularly scheduled meeting of the board of directors a discussion
18 of the notice of the significant health or safety issue.

19 (d)(1) A public school or school district classified by the commission
20 as being in facilities distress shall develop a facilities improvement plan
21 within thirty (30) days from the date of classification and promptly submit
22 the facilities improvement plan to the ~~division~~ Division of Public School
23 Academic Facilities and Transportation for review and approval.

24 (2) A public school or school district shall review and revise
25 its facilities improvement plan on a periodic basis as determined by the
26 ~~division~~ Division of Public School Academic Facilities and Transportation and
27 submit the updated facilities improvement plan to the ~~division~~ Division of
28 Public School Academic Facilities and Transportation in order for the
29 ~~division~~ Division of Public School Academic Facilities and Transportation to
30 determine whether the public school or school district is correcting its
31 deficient areas of practice regarding academic facilities.

32 (3) A school district shall use facilities improvement plans as
33 necessary to supplement and update its facilities master plan.

34 (e)(1) Every two (2) years, the ~~division~~ Division of Public School
35 Academic Facilities and Transportation shall determine whether the progress
36 of each school district complies with the school district's facilities master

1 plan and shall notify the school district of any noncompliance.

2 (2) Every two (2) years, the ~~division~~ Division of Public School
3 Academic Facilities and Transportation shall review the applications made for
4 the Academic Facilities Partnership Program established under § 6-20-2507, to
5 identify any school district that did not apply for state funding for
6 necessary facilities to meet adequacy requirements and shall notify the
7 school district of any deficiencies.

8 (3) Within thirty (30) days of receiving the notice provided
9 under subdivision (e)(1) or subdivision (e)(2) of this section, the school
10 district shall submit a facilities improvement plan to the ~~division~~ Division
11 of Public School Academic Facilities and Transportation for its review and
12 approval that states how the school district will address the noncompliance
13 issues contained in the notice.

14 (4) If the ~~division~~ Division of Public School Academic
15 Facilities and Transportation does not approve the facilities improvement
16 plan submitted by the school district, it shall identify the school district
17 as being in facilities distress.

18 (5) A school district may appeal the identification of the
19 ~~division~~ Division of Public School Academic Facilities and Transportation
20 under this subsection to the commission pursuant to the procedures
21 established by the commission+.

22 (f)(1)(A) Within ten (10) days of a school district's failure to pass
23 a millage required to fulfill its obligations under the school district's
24 facilities master plan, the ~~division~~ Division of Public School Academic
25 Facilities and Transportation shall provide written notice to the school
26 district of the date, time, and place for a conference with the school
27 district at which the ~~division~~ Division of Public School Academic Facilities
28 and Transportation will:

29 (i) Determine whether as a result of the failed
30 millage there are facilities issues relating to:

31 (a) Immediate repairs under § 6-20-2504(b)(4)
32 [repealed];

33 (b) The presence and number of suitability
34 needs of public school academic facilities, which shall be defined by rule;
35 or

36 (c) Immediate need for academic facilities to

1 meet student growth; and

2 (ii) Thoroughly discuss and explain the sanctions
3 and requirements that are available to the commission if the school district
4 or a school within the district is classified by the commission as being in
5 facilities distress under this section and § 6-21-812.

6 (B) The written notice shall be provided via certified
7 mail to the president of the school district board of directors and the
8 superintendent of the school district.

9 (C) The commission shall establish rules for the
10 implementation of this subdivision (f)(1).

11 (2)(A) If the commission determines that there are immediate
12 repairs, growth, or suitability issues that require expedited attention, the
13 commission may direct the school district to conduct a special election to
14 vote on a millage increase.

15 (B)(i) The ~~division~~ Division of Public School Academic
16 Facilities and Transportation and the school district shall agree upon the
17 issues to be submitted for a vote in the special election.

18 (ii) The special election may not include any issues
19 other than the issues that are mutually agreed upon.

20 (C) The special election shall be held on a date that is:

21 (i) Mutually agreed upon by the ~~division~~ Division of
22 Public School Academic Facilities and Transportation and the school district;
23 and

24 (ii) Not later than seven (7) months from the date
25 of the election at which the millage failed unless it is necessary to extend
26 the date beyond seven (7) months because of restrictions on the number of
27 elections that may be held within a calendar year.

28 (D) If within ninety (90) days from the notice provided to
29 the school district under subdivision (f)(1)(A) of this section the school
30 district has not set an election date, the ~~division~~ Division of Public School
31 Academic Facilities and Transportation shall identify the school district as
32 being in facilities distress.

33 (E)(i) If the school district is able to finance the
34 immediate repairs, growth, and suitability improvements without the necessity
35 of a special election on increasing its millage, the school district may
36 enter into an agreement with the ~~division~~ Division of Public School Academic

1 Facilities and Transportation to fund its improvements separately, which
2 shall include an implementation timeframe.

3 (ii) The ~~division~~ Division of Public School Academic
4 Facilities and Transportation shall identify the school district as being in
5 facilities distress for failure to implement the agreed upon plan for
6 immediate repairs, growth, and suitability improvements within the timeframe
7 specified in the agreement.

8 (g) When a school district is classified by the commission to be in
9 facilities distress, the ~~division~~ Division of Public School Academic
10 Facilities and Transportation may with the approval of the commission:

11 (1)(A) Provide on-site technical evaluation and assistance and
12 make written recommendations to the school district superintendent regarding
13 the care and maintenance of any academic facility in the school district.

14 (B) Any school district classified as being in facilities
15 distress status shall accept on-site technical evaluation and assistance from
16 the ~~division~~ Division of Public School Academic Facilities and
17 Transportation.

18 (C) The written recommendations of the ~~division~~ Division
19 of Public School Academic Facilities and Transportation are binding on the
20 school district, the superintendent, and the board of directors;

21 (2) Remove permanently, reassign, or suspend on a temporary
22 basis the superintendent of the school district, and:

23 (A) Appoint an individual in place of the superintendent
24 to administratively operate the school district under the supervision and
25 approval of the Commissioner of Elementary and Secondary Education; and

26 (B) Compensate from school district funds the individual
27 appointed to operate the school district;

28 (3) Suspend or remove some or all of the current board of
29 directors and call for the election of a new board of directors for the
30 school district, in which case the school district shall reimburse the county
31 board of election commissioners for election costs as otherwise required by
32 law;

33 (4) Require the school district to operate without a board of
34 directors under the supervision of the superintendent or an individual or
35 panel appointed by the commissioner;

36 (5) Waive the application of Arkansas law or the corresponding

1 State Board of Education rules and regulations, with the exception of:

2 (A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
3 seq.; and

4 (B) The Public School Employee Fair Hearing Act, § 6-17-
5 1701 et seq.;

6 (6) In the absence of a school district board of directors,
7 direct the commissioner to assume all authority of the board of directors as
8 may be necessary for the day-to-day governance of the school district;

9 (7)(A) Return the administration of the school district to the
10 former board of directors or place the administration of the school district
11 in a newly elected board of directors if:

12 (i) The ~~division~~ Division of Public School Academic
13 Facilities and Transportation certifies in writing to the commission and to
14 the school district that the school district has corrected all issues that
15 caused the classification of facilities distress; and

16 (ii) The commission determines the school district
17 has corrected all issues that caused the classification of facilities
18 distress.

19 (B) If the ~~division~~ Division of Public School Academic
20 Facilities and Transportation calls for an election of a new school district
21 board of directors, the school district shall reimburse the county board of
22 election commissioners for election costs as otherwise required by law;

23 (8) Require school district staff and employees to attend
24 training in areas of concern for the public school or school district;

25 (9)(A) Require a school district to cease all expenditures
26 related to activities not described as part of an adequate education in § 6-
27 20-2302 and place money that would have been spent on the activities into an
28 academic facilities escrow account to be released only upon approval by the
29 ~~division~~ Division of Public School Academic Facilities and Transportation for
30 use in conjunction with a local academic facilities project.

31 (B) School districts shall include a clause addressing
32 this contingency in all contracts with personnel who are involved with
33 activities not described as part of an adequate education;

34 (10) Notify the public school or school district in writing that
35 the deficiencies regarding academic facilities shall be corrected within a
36 time period designated by the ~~division~~ Division of Public School Academic

1 Facilities and Transportation;

2 (11)(A) Petition the state board at any time for the
3 consolidation, annexation, or reconstitution of a school district in
4 facilities distress or take other appropriate action as allowed by this
5 subchapter in order to secure and protect the best interest of the
6 educational resources of the state or to provide for the best interest of
7 students in the school district.

8 (B) The state board may approve the petition or take other
9 appropriate action as allowed by this subchapter.

10 (C) Except as set forth in subdivision (g)(11)(D) of this
11 section or subsection (n) of this section, the state board shall consolidate,
12 annex, or reconstitute any school district that fails to remove itself from
13 the classification of a school district in facilities distress within five
14 (5) consecutive school years of classification of facilities distress status.

15 (D) The state board may grant additional time for a public
16 school or school district to remove itself from facilities distress by
17 issuing a written finding supported by a majority of the state board
18 explaining in detail that the public school or school district could not
19 remove itself from facilities distress during the relevant time period due to
20 impossibility caused by external forces beyond the control of the public
21 school or school district;

22 (12) Correct the failure of a school district to complete its
23 agreed plan or to pass the millage in the special election under subdivision
24 (f)(2) of this section by contracting for and completing the necessary
25 improvements under the agreed plan;

26 (13)(A) If the ~~division~~ Division of Public School Academic
27 Facilities and Transportation recommends and the commission concurs that the
28 academic facilities in the public school district in facilities distress are
29 inadequate to provide an adequate education, the state board may dissolve the
30 school district and transfer students to public schools in other public
31 school districts.

32 (B) The state board shall assign the public school
33 district's territory, property, and debt; and

34 (14) Take any other action allowed by law that is deemed
35 necessary to assist a public school or school district in correcting the
36 issues that caused the classification of facilities distress, to secure and

1 protect the best interest of the educational resources of the state, or to
2 provide for the best interest of students in the school district.

3 (h) No school district identified by the ~~division~~ Division of Public
4 School Academic Facilities and Transportation as being in facilities distress
5 may incur any debt without the prior written approval of the commission.

6 (i) A public school or school district in facilities distress may
7 petition the commission for removal from facilities distress status only
8 after the ~~division~~ Division of Public School Academic Facilities and
9 Transportation has certified in writing that the public school or school
10 district has corrected all criteria for being classified as in facilities
11 distress and has complied with all ~~division~~ Division of Public School
12 Academic Facilities and Transportation recommendations and requirements for
13 removal from facilities distress status.

14 (j) The ~~division~~ Division of Public School Academic Facilities and
15 Transportation shall submit a written evaluation on the status of each school
16 district in facilities distress to the commission and the state board at
17 least one (1) time every six (6) months.

18 (k)(1)(A) If a school district is classified by the commission as
19 being in facilities distress and has immediate repairs, growth, or
20 suitability improvement issues, the ~~division~~ Division of Public School
21 Academic Facilities and Transportation, in addition to any other remedy under
22 this section and § 6-21-812, may provide a loan to the school district to be
23 repaid from any funds available that are not required to provide an adequate
24 education.

25 (B)(i) Funds available that are not required to provide an
26 adequate education include:

27 (a) Fund balances and any cash on hand that
28 are not part of foundation funding or categorical funding under § 6-20-2305
29 and are not otherwise required to provide an adequate education for students
30 in the public school district; and

31 (b) Revenues that are not obligated on bonds.

32 (ii) Funds remaining after the annual payment on a
33 bond obligation are included in funds that are not required to provide an
34 adequate education.

35 (2) The public school district shall repay the loan on the
36 schedule determined by the ~~division~~ Division of Public School Academic

1 Facilities and Transportation.

2 (1) The commission in conjunction with the Academic Facilities
3 Oversight Committee shall:

4 (1) Reexamine the role and function of the State Facility
5 Assessment of 2004;

6 (2) Assess the progress made by the state in the mandates of the
7 Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31,
8 91 S.W.3d 472 (2002); and

9 (3) Make needed changes in the implementation of the academic
10 facilities program by modifying the commission's rules.

11 (m) If the ~~division~~ Division of Public School Academic Facilities and
12 Transportation or the commissioner assumes authority over a public school
13 district in facilities distress under subsection (g) of this section, the
14 commission may pursue the following process for returning a public school
15 district to the local control of its residents:

16 (1) During the second full school year following the assumption
17 of authority, the commission shall determine the extent of the school
18 district's progress toward correcting all issues that caused the
19 classification of facilities distress;

20 (2)(A) If the commission determines that sufficient progress has
21 been made by a school district toward correcting all criteria for being
22 classified as in facilities distress, but the school district has not yet
23 resolved all issues that caused the classification of facilities distress,
24 the commissioner, with the approval of the commission, may appoint a
25 community advisory board of either five (5) or seven (7) members to serve
26 under the supervision and approval of the commissioner.

27 (B) The members of the community advisory board shall be
28 residents of the school district and shall serve on a voluntary basis without
29 compensation.

30 (C) The ~~Department of Education~~ Division of Elementary and
31 Secondary Education shall cause to be provided to the community advisory
32 board technical assistance and training in, at a minimum, the areas required
33 in § 6-13-629.

34 (D) The duties of the community advisory board include
35 without limitation:

36 (i) Meeting monthly during a regularly scheduled

1 public meeting with the state-appointed administrator regarding the progress
2 of the school or school district toward correcting all issues that caused the
3 classification of facilities distress;

4 (ii) Seeking community input from the residents of
5 the school district regarding the progress of the school or school district
6 toward correcting all issues that caused the classification of facilities
7 distress;

8 (iii) Conducting hearings and making recommendations
9 to the commissioner regarding personnel and student discipline matters as set
10 forth in the appropriate district policies;

11 (iv) Working to build community capacity for the
12 continued support of the school district; and

13 (v) Submitting quarterly reports to the commissioner
14 and the commission regarding the progress of the school or school district
15 toward correcting all issues that caused the classification of facilities
16 distress.

17 (E) The members of the community advisory board shall
18 serve at the pleasure of the commissioner until:

19 (i) The school district is returned to local control
20 and a permanent school district board of directors is elected and qualified;
21 or

22 (ii) The state board, upon petition of the
23 commission or ~~division~~ the Division of Public School Academic Facilities and
24 Transportation, annexes, consolidates, or reconstitutes the school district
25 pursuant to this title or under another provision of law;

26 (3) By April 1 of each year following the appointment of a
27 community advisory board pursuant to subdivision (m)(2) of this section, the
28 commission shall determine the extent of the school district's progress
29 toward correcting all criteria for being classified as in facilities distress
30 and shall:

31 (A) Allow the community advisory board to remain in place
32 for an additional year;

33 (B)(i) Return the school district to local control by
34 calling for the election of a newly elected school district board of
35 directors if:

36 (a) The ~~division~~ Division of Public School

1 Academic Facilities and Transportation certifies in writing to the commission
2 and to the school district that the school district has corrected all issues
3 that caused the classification of facilities distress; and

4 (b) The commission determines the school
5 district has corrected all issues that caused the classification of
6 facilities distress.

7 (ii) If the ~~division~~ Division of Public School
8 Academic Facilities and Transportation or the commission calls for an
9 election of a new school district board of directors, the school district
10 shall reimburse the county board of election commissioners for election costs
11 as otherwise required by law; or

12 (C) Petition the state board for the annexation,
13 consolidation, or reconstitution of the school district under this section;
14 and

15 (4)(A) If the ~~division~~ Division of Public School Academic
16 Facilities and Transportation, with the approval of the commission, calls for
17 an election of a new school district board of directors pursuant to
18 subdivision (g)(7) of this section, the commissioner, with the approval of
19 the commission, may appoint an interim board of directors to govern the
20 school district until a permanent school district board of directors is
21 elected and qualified.

22 (B) The interim board of directors shall consist of either
23 five (5) or seven (7) members.

24 (C) The members of the interim board of directors shall be
25 residents of the school district and otherwise eligible to serve as board
26 members under applicable law.

27 (D) The members of the interim board of directors shall
28 serve on a voluntary basis without compensation.

29 (n)(1) If, by the end of the fifth school year following the school
30 district's classification of facilities distress status, the school district
31 in facilities distress has not corrected all issues that caused the
32 classification of facilities distress, the state board, upon petition from
33 the commission or ~~division~~ the Division of Public School Academic Facilities
34 and Transportation and after a public hearing, shall consolidate, annex, or
35 reconstitute the school district under this section.

36 (2) The state board may grant additional time for a public

1 school or school district to remove itself from facilities distress by
2 issuing a written finding supported by a majority of the state board
3 explaining in detail that the public school or school district could not
4 remove itself from facilities distress during the relevant time period due to
5 impossibility caused by external forces beyond the control of the public
6 school or school district.

7 (o) This section does not prevent the ~~division~~ Division of Public
8 School Academic Facilities and Transportation, the commission, or state board
9 from taking any of the actions listed in this section at any time to address
10 a public school or school district in facilities distress.

11

12 SECTION 1739. Arkansas Code § 6-23-103(3)(A), concerning the
13 definition of "authorizer" under the Arkansas Quality Charter Schools Act of
14 2013, is amended to read as follows:

15 (A) ~~Department of Education~~ Division of Elementary and
16 Secondary Education; or

17

18 SECTION 1740. Arkansas Code § 6-23-105(d)(2)(A), concerning the basis
19 and procedure for public charter school probation or charter modification,
20 revocation, or denial of renewal, is amended to read as follows:

21 (2)(A) The hearing shall be held at the ~~Department of Education~~
22 Division of Elementary and Secondary Education.

23

24 SECTION 1741. Arkansas Code § 6-23-105(e), concerning the basis and
25 procedure for public charter school probation or charter modification,
26 revocation, or denial of renewal, is amended to read as follows:

27 (e)(1)(A) Immediately upon the revocation of a charter by the
28 authorizer, the public charter school shall:

29 (i) Transfer to the ~~department~~ division all state
30 funds held by the public charter school, which the ~~department~~ division shall
31 hold in receivership; and

32 (ii) Provide to the ~~department~~ division a detailed
33 accounting of all accounts payable due from the state funds and any
34 additional information or records requested by the ~~department~~ division
35 concerning the disbursement of the state funds.

36 (B) The ~~department~~ division shall hold funds received

1 under subdivision (e)(1)(A) of this section in a separate fund and shall
2 expend the funds only with prior approval of the Commissioner of Elementary
3 and Secondary Education.

4 (C) If the State Board of Education reverses the
5 revocation, the ~~department~~ division shall return any funds remaining in
6 receivership to the public charter school.

7 (2)(A) The ~~department~~ division shall establish a procedure for a
8 claimant to file a claim for disbursement from the state funds.

9 (B) The determination of the ~~department~~ division
10 concerning the disbursement of the state funds is final and may not be
11 appealed.

12 (3) If funds remain in receivership for which no legitimate,
13 documented claim has been made to the ~~department~~ division within one (1)
14 calendar year after the revocation, the remaining funds shall be transferred
15 to the Public School Fund.

16 (4) The state board may promulgate rules to implement this
17 subsection.

18
19 SECTION 1742. Arkansas Code § 6-23-107 is amended to read as follows:
20 6-23-107. Reporting requirements.

21 (a) Within ten (10) calendar days of the close of the first quarter of
22 each school year, a public charter school shall submit a written report to
23 the ~~Department of Education~~ Division of Elementary and Secondary Education
24 that contains the following information for the current school year:

25 (1) The number of applications for enrollment received;

26 (2) The number of applicants with a disability identified under
27 the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. ;
28 and

29 (3) The number of applications for enrollment the public charter
30 school denied and an explanation of the reason for each denial.

31 (b) Within ten (10) calendar days of the close of the fourth quarter
32 of each school year, a public charter school shall submit a written report to
33 the ~~department~~ division that contains the following information for the
34 current school year:

35 (1) The number of students in each of the following categories:

36 (A) Students who dropped out of the public charter school

1 during the school year;

2 (B) Students who were expelled during the school year by
3 the public charter school; and

4 (C) Students who were enrolled in the public charter
5 school but for a reason other than those cited in subdivisions (b)(1)(A) and
6 (B) of this section did not complete the school year at the public charter
7 school; and

8 (2)(A) For all students enrolled in the public charter school,
9 the scores for assessments required under the Arkansas Educational Support
10 and Accountability Act, § 6-15-2901 et seq.

11 (B) If there is any discrepancy in the number of students
12 for whom scores are reported under this subdivision (b)(2) and the number of
13 students enrolled at the beginning of the school year, the public charter
14 school shall explain in the report the reason for the discrepancy.

15 (c) The ~~department~~ division shall not exempt a public charter school
16 from the reporting required under this section.

17 (d) The ~~department~~ division shall publish a copy of each report on the
18 ~~department's~~ division's website.

19 (e) If a public charter school fails to comply with this section, the
20 ~~department~~ division shall note the failure in the annual evaluation of the
21 public charter school.

22

23 SECTION 1743. Arkansas Code § 6-23-108(b)(3), concerning a school for
24 agricultural studies, is amended to read as follows:

25 (3) A written review of the agricultural studies plan from the
26 ~~Department~~ Division of Career and Technical Education.

27

28 SECTION 1744. Arkansas Code § 6-23-203(b), concerning the resubmission
29 of applications for a conversion to an open-enrollment public charter school,
30 is amended to read as follows:

31 (b) The ~~Department of Education~~ Division of Elementary and Secondary
32 Education may provide technical assistance to the conversion public charter
33 school applicants in the:

34 (1) Creation of its application; and

35 (2) Modification of its application as directed by the
36 authorizer.

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SECTION 1745. Arkansas Code § 6-23-304(b)(3), concerning open-enrollment public charter school requirements and preferences for certain districts, is amended to read as follows:

(3) When the district has been classified by the ~~Department of Education~~ Division of Elementary and Secondary Education as in some phase of school improvement status under § 6-15-426 [repealed] or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

SECTION 1746. Arkansas Code § 6-23-304(c)(1)(A), concerning open-enrollment public charter school requirements and preferences for certain districts, is amended to read as follows:

(c)(1)(A) The ~~department~~ division, the state board, or a combination of the ~~department~~ division and state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

SECTION 1747. Arkansas Code § 6-23-304(c)(1)(C), concerning open-enrollment public charter school requirements and preferences for certain districts, is amended to read as follows:

(C) By March 1 each year, the ~~department~~ division shall issue a commissioner's memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

SECTION 1748. Arkansas Code § 6-23-305(b), concerning a notice of disapproval to an open-enrollment public charter school and assistance with resubmission of application, is amended to read as follows:

(b) The ~~Department of Education~~ Division of Elementary and Secondary Education may provide technical assistance to the applicant for an open-enrollment public charter school in the:

- (1) Creation of its application; and
- (2) Modification of its application as directed by the

1 authorizer.

2

3 SECTION 1749. Arkansas Code § 6-23-402(c), concerning enrollment
4 numbers and deadlines for an open-enrollment public charter school, is
5 amended to read as follows:

6 (c) Open-enrollment public charter schools shall keep records of
7 attendance in accordance with the law and submit quarterly attendance reports
8 to the ~~Department of Education~~ Division of Elementary and Secondary
9 Education.

10

11 SECTION 1750. Arkansas Code § 6-23-404(a), concerning the evaluation
12 of an open-enrollment public charter school, is amended to read as follows:

13 (a) The ~~Department of Education~~ Division of Elementary and Secondary
14 Education shall cause to be conducted an annual evaluation of open-enrollment
15 public charter schools.

16

17 SECTION 1751. Arkansas Code § 6-23-405 is amended to read as follows:

18 6-23-405. Monthly reports.

19 An open-enrollment public charter school in its initial school year of
20 operation shall provide monthly reports on its enrollment status and
21 compliance with its approved budget for the current school year to the
22 ~~Department of Education~~ Division of Elementary and Secondary Education.

23

24 SECTION 1752. Arkansas Code § 6-23-406 is amended to read as follows:

25 6-23-406. ~~Department of Education~~ Division of Elementary and Secondary
26 Education review.

27 The ~~Department of Education~~ Division of Elementary and Secondary
28 Education shall:

29 (1) Conduct an end-of-semester review of each open-enrollment
30 public charter school that is in its initial school year of operation at the
31 end of the first semester and at the end of the school year; and

32 (2) Report to the State Board of Education and the Commissioner
33 of Elementary and Secondary Education on the open-enrollment public charter
34 school's:

35 (A) Overall financial condition; and

36 (B) Overall condition of student enrollment.

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SECTION 1753. Arkansas Code § 6-23-501(a)(5) and (6), concerning funding for open-enrollment public charter schools, are amended to read as follows:

(5) The ~~Department of Education~~ Division of Elementary and Secondary Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the state board.

(6) An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the ~~department~~ division the number of students eligible for funding as specified in applicable rules.

SECTION 1754. Arkansas Code § 6-23-506(b)(1), concerning the assets of a school as property of the state, is amended to read as follows:

(b)(1) If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the ~~Department of Education~~ Division of Elementary and Secondary Education may require that the property be sold.

SECTION 1755. Arkansas Code § 6-23-701 is amended to read as follows:
6-23-701. Designated public charter authorizer.

(a) The ~~Department of Education~~ Division of Elementary and Secondary Education is the designated public charter authorizer with jurisdiction and authority over all public charters issued in this state to take the following action on a proposed or established public charter:

- (1) Approve;
- (2) Reject;
- (3) Renew;
- (4) Non-renew;
- (5) Place on probation;
- (6) Modify;
- (7) Revoke; or
- (8) Deny.

1 (b)(1) The ~~department~~ division shall exercise authority over public
2 charter schools under this chapter through a public charter authorizing panel
3 established within the ~~department~~ division.

4 (2)(A) The Commissioner of Elementary and Secondary Education
5 shall appoint a public charter authorizing panel that may consist of
6 individuals from outside the ~~department~~ division as well as professional
7 staff employed at the ~~department~~ division to serve at the pleasure of the
8 commissioner.

9 (B) The commissioner may elect to serve as a member on the
10 charter authorizing panel as the chair.

11 (3) The public charter authorizing panel is composed of an odd
12 number of members and consists of no less than five (5) members and no more
13 than eleven (11) members.

14 (c) The ~~department~~ division may waive provisions of Title 6 or State
15 Board of Education rules as allowed by law for public charters.

16 (d)(1) The ~~department~~ division shall conduct all hearings on public
17 charter school matters as required by law, rule, and process and make final
18 determinations as allowed by law.

19 (2)(A) A hearing under this chapter conducted by the ~~department~~
20 division shall be an open meeting under § 25-19-106.

21 (B) For the purposes of § 25-19-106, the members of the
22 public charter authorizing panel shall be considered a governing body only in
23 regard to actions specifically authorized by this subchapter.

24 (3)(A) All decisions of the panel shall be made by majority vote
25 of the quorum.

26 (B) A decision of the ~~department~~ division is final except
27 as provided under § 6-23-703.

28 (4) The Arkansas Administrative Procedure Act, § 25-15-201 et
29 seq., shall not apply to a hearing concerning a public charter school.

30 (e) The ~~department~~ division shall be the primary authorizer of public
31 charters except as provided under § 6-23-703.

32
33 SECTION 1756. Arkansas Code § 6-23-702(b), concerning public charter
34 authorizing procedures, is amended to read as follows:

35 (b)(1) The ~~Department of Education~~ Division of Elementary and
36 Secondary Education shall notify in writing the State Board of Education,

1 charter applicant, public charter school, and affected school districts, if
2 any, of final decisions made by the ~~department~~ division no less than fourteen
3 (14) calendar days before the next regularly scheduled State Board of
4 Education meeting after the final decision is made by the ~~department~~
5 division.

6 (2)(A) A charter applicant, public charter school, and affected
7 school district, if any, may submit in writing a request that the state board
8 review the final decision of the ~~department~~ division under § 6-23-703.

9 (B) The written request submitted under subdivision
10 (b)(2)(A) of this section shall state the specific reasons supporting a
11 review by the state board.

12 (3) The decision of whether to review a final decision of the
13 ~~department~~ division is discretionary by the state board and the provisions of
14 this section and § 6-23-703 do not grant any right of appeal to a charter
15 applicant, public charter school, or affected school district.

16
17 SECTION 1757. Arkansas Code § 6-23-703 is amended to read as follows:

18 6-23-703. State Board of Education optional review.

19 (a) On a motion approved by a majority vote, the State Board of
20 Education may exercise a right of review of a charter determination made by
21 the ~~Department of Education~~ Division of Elementary and Secondary Education at
22 the next regularly scheduled state board meeting after receiving notice
23 provided under § 6-23-702(b).

24 (b) If the state board votes to review a final decision made by the
25 ~~department~~ division, the state board shall:

26 (1) State the specific additional information the state board
27 requires from the ~~department~~ division, public charter school, public charter
28 school applicant, or affected school district;

29 (2) Conduct a full hearing regarding a final decision by the
30 ~~department~~ division under § 6-23-701(a); and

31 (3) Hold the hearing at the earlier of:

32 (A) The next regularly scheduled state board meeting
33 following the state board meeting during which the state board voted to
34 authorize a review; or

35 (B) A special board meeting called by the state board.

36 (c)(1) At the conclusion of the hearing, the state board may issue a

1 final decision by state board vote.

2 (2) The state board may decide by majority vote of the quorum
3 to:

4 (A) Affirm the decision of the ~~department~~ division;

5 (B) Take other lawful action on the public charter; or

6 (C)(i) Request additional information from the ~~department~~
7 division, public charter school, public charter school applicant, or affected
8 school district, if needed.

9 (ii) If the state board requests additional
10 information under subdivision (c)(2)(C)(i) of this section, the state board
11 shall hold a subsequent hearing at the earlier of:

12 (a) The next regularly scheduled state board
13 meeting; or

14 (b) A special board meeting called by the
15 state board.

16 (3) A decision made by the state board is final with no right of
17 appeal.

18 (d) The state board may promulgate rules as necessary to implement
19 this section.

20

21 SECTION 1758. Arkansas Code § 6-23-907(a), concerning the failure to
22 remit payment by an open-enrollment public charter school, is amended to read
23 as follows:

24 (a) If an open-enrollment public charter school fails to remit payment
25 for an outstanding loan under the Open-Enrollment Public Charter School
26 Facilities Loan Fund, upon certification of the amount of delinquent funds by
27 the Division of Public School Academic Facilities and Transportation, the
28 amount of delinquent funds including penalties and interest may be deducted
29 from the operating funds designated to the open-enrollment public charter
30 school through the ~~Department of Education~~ Division of Elementary and
31 Secondary Education and remitted directly by the ~~department~~ Division of
32 Elementary and Secondary Education to the Open-Enrollment Public Charter
33 School Facilities Loan Fund if requested by the ~~division~~ Division of Public
34 School Academic Facilities and Transportation.

35

36 SECTION 1759. Arkansas Code § 6-23-908(e)(1) and (2), concerning the

1 Open-Enrollment Public Charter School Facilities Funding Aid Program, are
2 amended to read as follows:

3 (e)(1) If an open-enrollment public charter school fails to use funds
4 received under this section as provided under subsection (d) of this section
5 or no longer has the need for the funds, the ~~division~~ Division of Public
6 School Academic Facilities and Transportation shall certify and recoup the
7 funds from the operating funds designated to the open-enrollment public
8 charter school through the ~~Department of Education~~ Division of Elementary and
9 Secondary Education and remitted directly by the ~~department~~ Division of
10 Elementary and Secondary Education.

11 (2) The operating funds from which the ~~division~~ Division of
12 Public School Academic Facilities and Transportation may recoup funds from an
13 open-enrollment public charter school are limited to:

14 (A) State funding distributed under § 6-20-2305, including
15 without limitation state foundation funding and state categorical funding;

16 (B) Federal funding to the extent allowed under federal
17 law; and

18 (C) The net assets of an open-enrollment public charter
19 school deemed property of the state upon revocation or nonrenewal of the
20 charter after all legal debts owed to third parties are satisfied.

21
22 SECTION 1760. Arkansas Code § 6-23-1003(b), concerning the
23 resubmission of applications, is amended to read as follows:

24 (b) The ~~Department of Education~~ Division of Elementary and Secondary
25 Education may provide technical assistance to the adult education charter
26 school applicant in the creation or modification of its application.

27
28 SECTION 1761. The introductory language of Arkansas Code § 6-23-1007,
29 concerning reporting by the Department of Education, is amended to read as
30 follows:

31 The ~~Department of Education~~ Division of Elementary and Secondary
32 Education shall report to the Senate Committee on Education and the House
33 Committee on Education by December 1 each year concerning:

34
35 SECTION 1762. Arkansas Code § 6-24-106(b)(2)(A), concerning public
36 school administrators, is amended to read as follows:

1 (2)(A) However, a member of an administrator's family or former
2 spouse may not be initially employed as a disbursing officer of the public
3 educational entity where the administrator is employed unless the public
4 educational entity receives written approval from the Commissioner of
5 Elementary and Secondary Education.

6
7 SECTION 1763. Arkansas Code § 6-24-106(c)(3)(B)(iii), concerning
8 public school administrators, is amended to read as follows:

9 (iii) The written resolution and other relevant data
10 shall be sent by certified mail, return receipt requested, or other method
11 approved by the State Board of Education to assure that adequate notice has
12 been received by the ~~Department of Education~~ Division of Elementary and
13 Secondary Education and to provide a record for the school district board of
14 directors sending the request for approval.

15
16 SECTION 1764. Arkansas Code § 6-24-106(c)(6), concerning public school
17 administrators, is amended to read as follows:

18 (6) The ~~Department of Education~~ Division of Elementary and
19 Secondary Education and the public educational entity shall maintain, under
20 their respective record retention policies, a record and copy of all
21 documentation relating to an exemption from the provisions of this chapter.

22
23 SECTION 1765. Arkansas Code § 6-24-107(b)(2)(A), concerning public
24 school employees, is amended to read as follows:

25 (A)(i) If it appears that the total transactions with an
26 employee for a fiscal year total, or will total, ten thousand dollars
27 (\$10,000) or more, the superintendent or other chief administrator of the
28 public educational entity shall forward the written resolution along with all
29 relevant data to the Commissioner of Elementary and Secondary Education for
30 independent review and approval.

31 (ii) The written resolution and other relevant data
32 shall be sent by certified mail, return receipt requested, or other method
33 approved by the State Board of Education to assure that adequate notice has
34 been received by the ~~Department of Education~~ Division of Elementary and
35 Secondary Education and to provide a record for the school district board of
36 directors sending the request for approval.

1
2 SECTION 1766. Arkansas Code § 6-24-107(c), concerning public school
3 employees, is amended to read as follows:

4 (c) Documentation. The ~~department~~ division and the public educational
5 entity shall maintain, under their respective record retention policies, a
6 record and copy of all documentation relating to transactions with employees.
7

8 SECTION 1767. Arkansas Code § 6-24-114(a)(1), concerning
9 administrative remedies applicable to administrators and employees, is
10 amended to read as follows:

11 (a)(1) The ~~Department of Education~~ Division of Elementary and
12 Secondary Education may review alleged violations of this chapter. If the
13 ~~Department~~ division reviews the allegations and the Commissioner of
14 Elementary and Secondary Education determines that there is adequate evidence
15 of a violation, the commissioner may refer the allegations to the State Board
16 of Education for review.
17

18 SECTION 1768. Arkansas Code § 6-41-101 is amended to read as follows:

19 6-41-101. Services to children with disabilities in nonpublic schools.

20 (a) ~~Prior to~~ Before expending any funding for new programs for
21 children with disabilities that include funding for evaluation, counseling,
22 assessment, personnel, equipment, or other capital outlay in other than
23 public schools, the ~~Department~~ Division of Career and Technical Education
24 shall publish a public notice of the intent to provide additional special
25 services to the disabled, specifying the services in the public notice, and
26 inviting organizations that are recognized by the state to provide education,
27 assessment, jobs skills training, or vocational education to children with
28 disabilities to submit proposals to provide the additional special services.

29 (b) The ~~department~~ division may award one (1) or more contracts to any
30 organization that can fulfill the goals and objectives of the program, or the
31 ~~department~~ division may assume responsibility for implementing the program.
32

33 SECTION 1769. Arkansas Code § 6-41-104(d), concerning services for
34 children determined in another state to be eligible for services due to a
35 behavioral disability, is amended to read as follows:

36 (d) The ~~Department of Education~~ Division of Elementary and Secondary

1 Education shall have the authority to promulgate rules as necessary to carry
2 out the provisions of this section.

3
4 SECTION 1770. Arkansas Code § 6-41-203(3)(B), concerning the
5 definition of "free appropriate public education" under the Children with
6 Disabilities Act, is amended to read as follows:

7 (B) Meet the standards of the ~~Department of Education~~
8 Division of Elementary and Secondary Education and the Individuals with
9 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on
10 January 1, 2017;

11
12 SECTION 1771. Arkansas Code § 6-41-210 is amended to read as follows:

13 6-41-210. Special Education Section for children with disabilities.

14 (a) There is established in the ~~Department of Education~~ Division of
15 Elementary and Secondary Education a Special Education Section.

16 (b) The section shall be headed by an associate director, who shall be
17 qualified by education, training, and experience to take responsibility for,
18 and give direction to, the programs of the ~~department~~ division relating to
19 children with disabilities.

20 (c) Implementation of this section shall be dependent upon funds being
21 made available to the ~~department~~ division for this purpose.

22
23 SECTION 1772. Arkansas Code § 6-41-211(a)(1), concerning the creation
24 of the Advisory Council for the Education of Children with Disabilities, is
25 amended to read as follows:

26 (a)(1) There shall be an Advisory Council for the Education of
27 Children with Disabilities, which shall advise and consult with the
28 Commissioner of Elementary and Secondary Education and the Associate Director
29 of the Special Education Section of the ~~Department of Education~~ Division of
30 Elementary and Secondary Education and which shall engage in such other
31 activities as are set forth in this section.

32
33 SECTION 1773. Arkansas Code § 6-41-211(g), concerning the creation of
34 the Advisory Council for the Education of Children with Disabilities, is
35 amended to read as follows:

36 (g) The council shall:

1 (1) Advise the ~~Department of Education~~ Division of Elementary
2 and Secondary Education of unmet needs within the state in the education of
3 children with disabilities;

4 (2) Comment publicly on any rules or regulations proposed by the
5 state regarding the education of children with disabilities;

6 (3) Advise the ~~department~~ division in developing evaluations and
7 reporting on data to the United States Secretary of Education under 20 U.S.C.
8 § 1418;

9 (4) Advise the ~~department~~ division in developing corrective
10 action plans to address findings identified in federal monitoring reports
11 under Title 20, Chapter 33, Subchapter II of the United States Code; and

12 (5) Advise the ~~department~~ division in developing and
13 implementing policies relating to the coordination of services for children
14 with disabilities.

15
16 SECTION 1774. Arkansas Code § 6-41-216(c)(3), concerning test,
17 evaluations, change of child's status, and hearings, is amended to read as
18 follows:

19 (3)(A) The Special Education Section in the ~~Department of~~
20 Education Division of Elementary and Secondary Education shall establish
21 standards and qualifications for individuals to serve as hearing officers.

22 (B) Neither an employee of the ~~Department of Education~~
23 Division of Elementary and Secondary Education nor an employee of the local
24 school district involved in a particular hearing may serve as a hearing
25 officer.

26 (C) Professional service contracts with individuals made
27 for the purpose of compensating them for services rendered in connection with
28 hearings shall not constitute employment.

29
30 SECTION 1775. Arkansas Code § 6-41-312 is amended to read as follows:
31 6-41-312. Reports.

32 (a) Public school districts and entities receiving state or federal
33 funds to provide special education programming shall keep an accurate
34 account, in the manner and on the forms prescribed by the ~~Department of~~
35 Education Division of Elementary and Secondary Education, of all moneys
36 expended for special education programs and shall report those expenditures

1 to the ~~department~~ division.

2 (b) A report of the average daily attendance of all students enrolled,
3 including students receiving instruction in the homebound setting, will be
4 made to the ~~department~~ division.

5
6 SECTION 1776. Arkansas Code § 6-41-402 is amended to read as follows:
7 6-41-402. Definitions.

8 As used in this subchapter:

9 (1) "Compliance citation" means a citation issued by the
10 ~~Department of Education~~ Division of Elementary and Secondary Education that
11 documents a school's failure to comply with state education laws;

12 ~~(2) "Department" means the Department of Education;~~ and

13 ~~(3)~~(2) "Individualized education program" means the evaluation
14 of the educational needs of a child with disabilities conducted pursuant to §
15 6-41-217.

16
17 SECTION 1777. The introductory language of Arkansas Code § 6-41-
18 403(a), concerning the assessment of student progress, is amended to read as
19 follows:

20 (a) Each school district shall ensure that at least one (1) time per
21 year a licensed teacher of the visually impaired, or other qualified person
22 as determined by the ~~Department of Education~~ Division of Elementary and
23 Secondary Education, conducts an assessment of the educational progress of
24 each visually impaired student enrolled in that school district identified as
25 having or suspected of having a disability pursuant to the Children with
26 Disabilities Act of 1973, § 6-41-201 et seq. The assessment shall:

27
28 SECTION 1778. Arkansas Code § 6-41-403(a)(1), concerning the
29 assessment of student progress, is amended to read as follows:

30 (1) Address the student's need for braille instruction, using
31 procedures developed by the ~~department~~ division, and specify the learning
32 medium most appropriate for the student's educational progress;

33
34 SECTION 1779. Arkansas Code § 6-41-404 is amended to read as follows:
35 6-41-404. Braille instruction.

36 Each student who needs braille reading and writing instruction shall

1 receive instruction from either a licensed teacher of the visually impaired
2 or a person who is qualified in braille instruction as determined by the
3 ~~Department of Education~~ Division of Elementary and Secondary Education.
4

5 SECTION 1780. Arkansas Code § 6-41-405(a), concerning electronic
6 textbooks, is amended to read as follows:

7 (a) The ~~Department of Education~~ Division of Elementary and Secondary
8 Education shall have the authority to require publishers of textbooks to
9 furnish electronic media for the text portion of those textbooks required by
10 visually impaired students.
11

12 SECTION 1781. Arkansas Code § 6-41-406 is amended to read as follows:

13 6-41-406. Compliance required.

14 Failure of a school district to come into compliance with the
15 provisions of this subchapter shall be grounds for a compliance citation from
16 the ~~Department of Education~~ Division of Elementary and Secondary Education.
17

18 SECTION 1782. Arkansas Code § 6-41-407 is amended to read as follows:

19 6-41-407. Accommodation for students with sensory processing
20 difficulty.

21 When administering a state-mandated assessment or a state-mandated
22 test, the ~~Department of Education~~ Division of Elementary and Secondary
23 Education and each school district shall allow a student that has been
24 evaluated through appropriate testing, including a comprehensive eye
25 examination by an optometrist or an ophthalmologist, and identified as having
26 difficulty with sensory processing in reaction to oversensitivity to full
27 spectrum light to use color overlays specific to the student's
28 oversensitivity that alter the contrast between the words and the page so
29 that the student can visually comprehend the words on a page of a state-
30 mandated assessment or a state-mandated test, if made available by the test
31 developer.
32

33 SECTION 1783. Arkansas Code § 6-41-602(5), concerning the definition
34 of "dyslexia therapist" under the laws related to dyslexia and related
35 disorders, is amended to read as follows:

36 (5) "Dyslexia therapist" means a professional who has completed

1 training and obtained certification in dyslexia therapy from a dyslexia
2 therapy training program defined by the ~~Department of Education~~ Division of
3 Elementary and Secondary Education; and

4
5 SECTION 1784. Arkansas Code § 6-41-603(a)(1), concerning required
6 screening and intervention for kindergarten through second grade children, is
7 amended to read as follows:

8 (a)(1) A school district shall screen each student in kindergarten
9 through grade two (K-2) and others required by the ~~Department of Education~~
10 Division of Elementary and Secondary Education rule using the Dynamic
11 Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent screener.
12

13 SECTION 1785. The introductory language of Arkansas Code § 6-41-
14 603(b), concerning required screening and intervention for kindergarten
15 through second grade children, is amended to read as follows:

16 (b) The ~~Department of Education~~ Division of Elementary and Secondary
17 Education shall adopt rules to ensure that students will be screened using
18 DIBELS or an equivalent screener:
19

20 SECTION 1786. Arkansas Code § 6-41-605(b), concerning instructional
21 approaches regarding dyslexia, is amended to read as follows:

22 (b) Until there are a sufficient number of graduates from a dyslexia
23 therapy program established at the university level in Arkansas or from a
24 dyslexia therapy program established at the university level in another state
25 that is approved by the ~~Department of Education~~ Division of Elementary and
26 Secondary Education, the ~~department~~ division shall allow dyslexia therapy to
27 be provided by individuals who have received training and certification from
28 a program approved by the ~~department~~ division.
29

30 SECTION 1787. Arkansas Code § 6-41-607(a), concerning dyslexia
31 specialists, is amended to read as follows:

32 (a) ~~No later than the 2015 fiscal year, the Department of Education~~
33 The Division of Elementary and Secondary Education shall employ at least one
34 (1) dyslexia specialist with a minimum of three (3) years of field experience
35 in screening, identifying, and treating dyslexia and related disorders to
36 provide technical assistance for dyslexia and related disorders to school

1 districts across the state.

2

3 SECTION 1788. Arkansas Code § 6-41-607(c), concerning dyslexia
4 specialists, is amended to read as follows:

5 (c) The ~~department~~ division shall ensure that at least one (1) staff
6 member at each education service cooperative is trained as a dyslexia
7 specialist to provide necessary information and support to school districts.

8

9 SECTION 1789. The introductory language of Arkansas Code § 6-41-
10 608(a), concerning dyslexia professional awareness, is amended to read as
11 follows:

12 (a) ~~No later than the 2014-2015 school year, the Department of~~
13 ~~Education~~ The Division of Elementary and Secondary Education shall ensure
14 that each teacher receives professional awareness on:

15

16 SECTION 1790. Arkansas Code § 6-41-608(b)(3), concerning dyslexia
17 professional awareness, is amended to read as follows:

18 (3) At another venue approved by the ~~department~~ division.

19

20 SECTION 1791. Arkansas Code § 6-41-609 is amended to read as follows:

21 6-41-609. Dyslexia and related disorder education in teacher
22 preparation programs.

23 ~~No later than the 2015-2016 school year, the Department of Education~~
24 The Division of Elementary and Secondary Education shall collaborate with the
25 ~~department~~ Division of Higher Education to ensure that all teacher education
26 programs offered at state-supported institutions of higher education provide
27 dyslexia professional awareness of the:

28 (1) Characteristics of dyslexia; and

29 (2) Evidence-based interventions and accommodations for
30 dyslexia.

31

32 SECTION 1792. Arkansas Code § 6-41-610 is amended to read as follows:

33 6-41-610. Rules – Dyslexia resource guide.

34 (a) The ~~Department of Education~~ Division of Elementary and Secondary
35 Education shall adopt rules to implement this subchapter.

36 (b)(1) The ~~department~~ Division of Elementary and Secondary Education

1 shall maintain a committee for the purpose of developing and updating the
2 Arkansas Dyslexia Resource Guide.

3 (2)(A) The committee shall include one (1) representative who
4 has experience working in the field of dyslexia intervention from the
5 following organizations, appointed by the Commissioner of Elementary and
6 Secondary Education:

7 (i) The Arkansas Association of Educational
8 Administrators;

9 (ii) The Division of Learning Services of the
10 ~~Department of Education~~ Division of Elementary and Secondary Education;

11 (iii) The ~~Department~~ Division of Higher Education;

12 (iv) The Arkansas Education Association;

13 (v) The Arkansas School Boards Association;

14 (vi) The Arkansas School Psychology Association,

15 with at least three (3) years of experience in testing for dyslexia; and

16 (vii) An education service cooperative
17 administrator.

18 (B) Three (3) professionals who have worked in a public
19 school who are knowledgeable in and have expertise in dyslexia screening and
20 interventions.

21

22 SECTION 1793. The introductory language of Arkansas Code § 6-41-
23 611(b), concerning the rules and enforcement under the laws governing
24 dyslexia and related disorders, is amended to read as follows:

25 (b) The ~~Department of Education~~ Division of Elementary and Secondary
26 Education;

27

28 SECTION 1794. Arkansas Code § 6-41-805(b)(1) and (2), concerning the
29 responsibilities of a higher education institute that wishes to establish a
30 Building Better Futures Program, are amended to read as follows:

31 (b)(1) The ~~Department~~ Division of Higher Education shall provide
32 information statewide, including to each high school in the state, on the
33 options for postsecondary education for students with intellectual
34 disabilities.

35 (2) Each public high school in Arkansas shall provide the
36 information distributed by the ~~Department~~ Division of Higher Education to the

1 parent or guardian of a student with an intellectual or developmental
2 disability enrolled in the public high school.

3
4 SECTION 1795. Arkansas Code § 6-41-902(c), concerning student
5 eligibility for a Succeed Scholarship, is amended to read as follows:

6 (c) The ~~Department of Education~~ Division of Elementary and Secondary
7 Education shall approve a maximum of twenty (20) scholarships under this
8 subchapter per academic year for students in foster care.

9
10 SECTION 1796. Arkansas Code § 6-41-903(a)(1), concerning private
11 school eligibility for the Succeed Scholarship Program, is amended to read as
12 follows:

13 (a)(1) A private school shall notify the ~~Department of Education~~
14 Division of Elementary and Secondary Education of its intent to participate
15 in the Succeed Scholarship Program.

16
17 SECTION 1797. The introductory language of Arkansas Code § 6-41-
18 903(b), concerning private school eligibility for the Succeed Scholarship
19 Program, is amended to read as follows:

20 (b) The ~~department~~ division shall approve a private school as eligible
21 to participate in the program if the private school:

22
23 SECTION 1798. Arkansas Code § 6-41-903(b)(2), concerning private
24 school eligibility for the Succeed Scholarship Program, is amended to read as
25 follows:

26 (2)(A) Demonstrates fiscal soundness by having been in operation
27 for one (1) school year or providing the ~~department~~ division with a statement
28 by a certified public accountant confirming that the private school is
29 insured and the private school has sufficient capital or credit to operate in
30 the upcoming school year.

31 (B) In lieu of a statement, a surety bond or letter of
32 credit for the amount equal to the scholarship funds for any quarter may be
33 filed with the ~~department~~ division;

34
35 SECTION 1799. Arkansas Code § 6-41-903(c), concerning private school
36 eligibility for the Succeed Scholarship Program, is amended to read as

1 follows:

2 (c) The ~~department~~ division shall maintain a list of private schools
3 eligible to participate in the program and make the list available on the
4 ~~department's~~ division's website.

5

6 SECTION 1800. Arkansas Code § 6-41-904(a)(1), concerning the
7 responsibilities of Succeed Scholarship Program recipients, is amended to
8 read as follows:

9 (1) Select the private school from the list of private schools
10 eligible to participate in the program that is maintained by the ~~Department~~
11 ~~of Education~~ Division of Elementary and Secondary Education;

12

13 SECTION 1801. Arkansas Code § 6-41-905(c) and (d), concerning the
14 funding and scholarship payments of the Succeed Scholarship Program, is
15 amended to read as follows:

16 (c) Scholarship payments shall be disbursed in equal amounts on a
17 monthly basis by the ~~Department of Education~~ Division of Elementary and
18 Secondary Education or another state agency, person, firm, or corporation
19 designated by the ~~department~~ division to administer and disburse funds.

20 (d) Beginning on July 1, 2015, the ~~department~~ division shall prepare a
21 budget, including cost estimates and projections so that a separate
22 appropriation can be made for the program for the 2016-2017 school year.

23

24 SECTION 1802. Arkansas Code § 6-42-103, concerning the creation of the
25 Office for the Education of Gifted and Talented Children, is amended to read
26 as follows:

27 6-42-103. Office for the Education of Gifted and Talented Children.

28 To implement the policy stated in § 6-42-101, there is established in
29 the Division of Learning Services of the ~~Department of Education~~ Division of
30 Elementary and Secondary Education an Office for the Education of Gifted and
31 Talented Children to be headed by an administrator who shall be qualified by
32 education, training, and experience to direct the state program for gifted
33 and talented children.

34

35 SECTION 1803. Arkansas Code § 6-42-104(a)(1), concerning the creation
36 of the Advisory Council for the Education of Gifted and Talented Children, is

1 amended to read as follows:

2 (a)(1) There is established an Advisory Council for the Education of
3 Gifted and Talented Children, which shall advise and consult with the
4 Commissioner of Elementary and Secondary Education and the Administrator of
5 the Office for the Education of Gifted and Talented Children and which shall
6 engage in other activities as set forth in this section.

7

8 SECTION 1804. Arkansas Code § 6-42-104(f), concerning the creation of
9 the Advisory Council for the Education of Gifted and Talented Children, is
10 amended to read as follows:

11 (f) The ~~Department of Education~~ Division of Elementary and Secondary
12 Education shall, within available personnel, facilities, and appropriations,
13 furnish meeting facilities and staff services for the council.

14

15 SECTION 1805. Arkansas Code § 6-42-104(h)(5), concerning the creation
16 of the Advisory Council for the Education of Gifted and Talented Children, is
17 amended to read as follows:

18 (5) Participate with the staff of the ~~Department~~ division in
19 determining the need for educational programs to serve gifted and talented
20 children to be operated by the ~~department~~ division, in selecting the sites
21 for educational programs, in establishing student selection criteria for
22 participation in the programs, in selecting students to participate in the
23 programs, and in selecting faculty and staff for the programs; and

24

25 SECTION 1806. Arkansas Code § 6-42-104(h)(6)(B), concerning the
26 creation of the Advisory Council for the Education of Gifted and Talented
27 Children, is amended to read as follows:

28 (B) The programs so recognized shall be eligible to
29 receive an award of not more than three thousand dollars (\$3,000) from funds
30 appropriated to the ~~department~~ division for the purpose of making awards to
31 outstanding educational programs.

32

33 SECTION 1807. Arkansas Code § 6-42-106(a)(1) and (2), concerning the
34 funding and eligibility of gifted and talented programs, is amended to read
35 as follows:

36 (a)(1) Appropriations made by the General Assembly to the Public

1 School Fund for the purposes of this subchapter shall be disbursed by the
2 ~~Department of Education~~ Division of Elementary and Secondary Education in
3 accordance with regulations promulgated by the State Board of Education.

4 (2) Such funds may be used to provide financial assistance to
5 school districts operating programs for gifted and talented children and to
6 fund supplemental programs for gifted and talented children operated by the
7 ~~department~~ division directly or through contract with other public or private
8 agencies.

9
10 SECTION 1808. Arkansas Code § 6-42-108 is amended to read as follows:

11 6-42-108. Summer residential and day programs.

12 (a) The ~~Department of Education~~ Division of Elementary and Secondary
13 Education is authorized to establish annual summer residential and day
14 programs to provide enriched educational offerings for junior high and high
15 school students who have demonstrated exceptional abilities in a specific
16 subject area.

17 (b) Each program shall offer instruction in subject areas to be
18 designated annually by the ~~department~~ division from the subject areas of
19 science, mathematics, computer science, social studies, arts and music,
20 literature and communication, and foreign languages.

21 (c) The summer educational programs established pursuant to the
22 authority of this section shall be operated by the ~~department~~ division
23 directly or by contract with other public or private agencies and shall be
24 funded from the appropriation to the ~~department~~ division for the operation of
25 programs for the education of gifted and talented students.

26
27 SECTION 1809. Arkansas Code § 6-42-109, concerning school district
28 reports, is amended to read as follows:

29 6-42-109. Reports by school districts.

30 Each school district shall report annually to the ~~Department of~~
31 Education Division of Elementary and Secondary Education, at a prescribed due
32 date, the extent to which it is providing educational opportunities
33 specifically designed to meet the educational needs of gifted and talented
34 children.

35
36 SECTION 1810. Arkansas Code § 6-42-303(b)(3)(A), concerning the

1 creation of the Board of Visitors for the Arkansas School for Mathematics,
2 Sciences, and the Arts, is amended to read as follows:

3 (3)(A) In addition to appointed members of the Board of Visitors
4 for the Arkansas School for Mathematics, Sciences, and the Arts, six (6) ex
5 officio nonvoting members shall also serve on the Board of Visitors for the
6 Arkansas School for Mathematics, Sciences, and the Arts as follows:

7 (i) The Commissioner of Elementary and Secondary
8 Education;

9 (ii) The Director of the ~~Department~~ Division of
10 Higher Education;

11 (iii) The ~~Executive~~ Director of the Arkansas
12 Economic Development Commission or his or her designee;

13 (iv) The Director of the ~~Department~~ Division of
14 Arkansas Heritage;

15 (v) The president of the parent association of the
16 school; and

17 (vi) The president of the student government of the
18 school.

19

20 SECTION 1811. Arkansas Code § 6-42-306 is amended to read as follows:

21 6-42-306. ~~Department of Education~~ Division of Elementary and Secondary
22 Education regulations.

23 All ~~Department of Education~~ Division of Elementary and Secondary
24 Education regulations shall apply to the Arkansas School for Mathematics,
25 Sciences, and the Arts unless the ~~department~~ division determines otherwise or
26 unless the regulations conflict with governance of the school by the Board of
27 Trustees of the University of Arkansas and the purposes and intent of this
28 subchapter.

29

30 SECTION 1812. Arkansas Code § 6-43-102(b)(2), concerning the powers
31 and duties of the board of the Arkansas School for the Blind and the Arkansas
32 School for the Deaf, is amended to read as follows:

33 (2) The board of trustees, in consultation with the Secretary of
34 the Department of Education, shall fix the salaries of officers and employees
35 not already fixed by law.

36

1 SECTION 1813. Arkansas Code § 6-43-103(b), concerning superintendents
2 of the Arkansas School for the Blind and the Arkansas School for the Deaf, is
3 amended to read as follows:

4 (b) The Board of Trustees of the Arkansas School for the Blind and the
5 Arkansas School for the Deaf, in consultation with the Secretary of the
6 Department of Education, shall select the superintendents of the institutions
7 committed to its care.

8
9 SECTION 1814. Arkansas Code § 6-43-104 is amended to read as follows:
10 6-43-104. Employees generally.

11 (a) The superintendents shall have power to select and engage all
12 employees of the schools at salaries fixed by the Board of Trustees of the
13 Arkansas School for the Blind and the Arkansas School for the Deaf in
14 consultation with the Secretary of the Department of Education, reporting the
15 same for approval to the board at the next regular meeting thereof.

16 (b) The superintendents shall have the ~~sole~~ power to remove employees
17 of the respective schools and may remove any employee at any time in their
18 discretion for cause, but, in case of removal, the superintendent shall
19 report the removal and the ground therefor to the board of trustees and the
20 Secretary of the Department of Education.

21
22 SECTION 1815. Arkansas Code § 6-43-305(b), concerning teachers for the
23 Arkansas School for the Deaf, is amended to read as follows:

24 (b) Teachers for the sensory impaired shall be eligible for an
25 additional step increase after being certified in teaching the vision or
26 hearing impaired by the ~~Department of Education~~ Division of Elementary and
27 Secondary Education.

28
29 SECTION 1816. Arkansas Code § 6-43-308 is amended to read as follows:
30 6-43-308. Custodian of funds – Payment of bills, warrants, etc.

31 (a) The Treasurer of State, in consultation with the Secretary of the
32 Department of Education, shall have the custody of all moneys, notes,
33 securities, and other obligations belonging to the Arkansas School for the
34 Deaf and shall be responsible for them under his or her bond and oath as the
35 Treasurer of State.

36 (b) The Treasurer of State, in consultation with the secretary, shall

1 pay all the expenses of the school out of the funds appropriated for the use
2 of the school, upon warrants drawn by the Auditor of State in favor of the
3 Board of Trustees of the Arkansas School for the Deaf, who shall issue his or
4 her warrants upon orders signed by the President of the Board of Trustees of
5 the Arkansas School for the Deaf and at least two (2) members of the board of
6 trustees, except as herein otherwise provided.

7
8 SECTION 1817. Arkansas Code § 6-45-103(1), concerning the definition
9 of "appropriate early childhood program" under the Arkansas Better Chance
10 Program Act, is amended to read as follows:

11 (1) "Appropriate early childhood program" means a
12 developmentally appropriate program for young children, birth through five
13 (5) years of age, approved by the ~~Department of Education~~ Division of
14 Elementary and Secondary Education as complying with the regulatory
15 guidelines of the early childhood state accreditation by the Department of
16 Human Services and Arkansas Better Chance Core Quality Approval Standards of
17 the ~~Department of Education~~ Division of Elementary and Secondary Education to
18 be issued by the ~~Department of Education~~ Division of Elementary and Secondary
19 Education pursuant to this chapter;

20
21 SECTION 1818. Arkansas Code § 6-45-103(3), concerning the definition
22 of "Arkansas Early Childhood Commission" under the Arkansas Better Chance
23 Program Act, is amended to read as follows:

24 (3) "Arkansas Early Childhood Commission" or "commission" means
25 a twenty-five-member advisory body appointed by the Governor to perform
26 certain duties and responsibilities relating to the development, expansion,
27 and coordination of early childhood programs, including, but not limited to,
28 serving as the advisory body to the ~~Department of Education~~ Division of
29 Elementary and Secondary Education on early childhood program issues;

30
31 SECTION 1819. Arkansas Code § 6-45-103(5), concerning the definition
32 of "Department" under the Arkansas Better Chance Program Act, is repealed:

33 ~~(5) "Department" means the Department of Education or its~~
34 ~~authorized agents.~~

35
36 SECTION 1820. Arkansas Code § 6-45-104(a)(2), concerning the

1 construction of the laws governing the Arkansas Better Chance Program, is
2 amended to read as follows:

3 (2) A local school is required to work with the ~~Department of~~
4 ~~Education~~ Division of Elementary and Secondary Education and its local
5 community to establish, promote, and assist in the development of a program
6 under the Arkansas Better Chance for School Success Program to serve all
7 children in the school as provided in § 6-45-108, if:

8 (A) The school has had seventy-five percent (75%) or more
9 students scoring below proficiency on the Elementary benchmark exams or other
10 exams designated by the ~~department~~ division in the preceding two (2) school
11 years; or

12 (B) The school has been designated by the ~~department~~
13 division as being in school improvement status under § 6-15-425 [repealed] or
14 is located in a school district in academic distress.

15

16 SECTION 1821. Arkansas Code § 6-45-105 is amended to read as follows:

17 6-45-105. Establishment of Arkansas Better Chance Program.

18 (a)(1)(A) The ~~Department of Education~~ Division of Elementary and
19 Secondary Education shall establish the Arkansas Better Chance Program to
20 assist in the establishment and funding of the appropriate early childhood
21 programs for children from birth through five (5) years of age.

22 (B) Within the Arkansas Better Chance Program there is
23 established the Arkansas Better Chance for School Success Program for
24 providing appropriate early care and education programs for children three
25 (3) years of age and four (4) years of age as identified under § 6-45-108(a).

26 (2)(A) ~~Beginning with the 1991-1992 school year, the Department~~
27 The Division of Elementary and Secondary Education shall award grants or
28 contracts to appropriate early childhood programs selected by the ~~department~~
29 Division of Elementary and Secondary Education in accordance with specified
30 programmatic standards.

31 (B)(i) These standards will be developed by the ~~department~~
32 Division of Elementary and Secondary Education, with the advice and
33 assistance of the Arkansas Early Childhood Commission.

34 (ii) Standards for funding the Home Instruction for
35 Parents of Preschool Youngsters will be developed in conjunction with the
36 Arkansas HIPPIY Advisory Board.

1 (C) The Home Instruction for Parents of Preschool
2 Youngsters Regional Technical Assistance and Training Center shall be defined
3 and funded as an integral part of the Home Instruction for Parents of
4 Preschool Youngsters to provide necessary training, technical assistance, and
5 program support to program sites in Arkansas.

6 (b) The programmatic standards and other rules and regulations
7 necessary for the implementation of the Arkansas Better Chance Program shall
8 be adopted by the State Board of Education in accordance with the provisions
9 of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

10 (c)(1) The ~~Department~~ Division of Elementary and Secondary Education
11 may expend a maximum of two percent (2%) of available funds to administer the
12 Arkansas Better Chance Program and to monitor Arkansas Better Chance Program
13 grantees to ensure compliance with programmatic standards.

14 (2) The ~~Department~~ Division of Elementary and Secondary
15 Education may contract with the Division of Child Care and Early Childhood
16 Education of the Department of Human Services to administer the Arkansas
17 Better Chance Program.

18
19 SECTION 1822. Arkansas Code § 6-45-106(a)(1)(A)(i), concerning the
20 application process and allocation of funding for the Arkansas Better Chance
21 Program, is amended to read as follows:

22 (a)(1)(A)(i) Any early childhood program accredited and quality-
23 approved by the Department of Human Services according to standards approved
24 by the ~~Department of Education~~ Division of Elementary and Secondary Education
25 may apply for funding, regardless of the sponsorship of the program.

26
27 SECTION 1823. Arkansas Code § 6-45-106(a)(2)(A)(i), concerning the
28 application process and allocation of funding for the Arkansas Better Chance
29 Program, is amended to read as follows:

30 (i) The school is in a district that has been
31 designated by the ~~Department of Education~~ Division of Elementary and
32 Secondary Education as being in academic distress; and

33
34 SECTION 1824. Arkansas Code § 6-45-106(b), concerning the application
35 process and allocation of funding for the Arkansas Better Chance Program, is
36 amended to read as follows:

1 (b) In order to be considered, an application must contain all
2 information required by the ~~Department of Education's~~ Division of Elementary
3 and Secondary Education's regulatory guidelines.
4

5 SECTION 1825. Arkansas Code § 6-45-106(c)(1), concerning the
6 application process and allocation of funding for the Arkansas Better Chance
7 Program, is amended to read as follows:

8 (c)(1) In allocating funding for the Arkansas Better Chance for School
9 Success Program, priority consideration shall be given to:

10 (A) Schools that have seventy-five percent (75%) or more
11 students scoring below proficiency on the Elementary benchmark exams or other
12 exams designated by the ~~Department of Education~~ Division of Elementary and
13 Secondary Education in the preceding two (2) school years; and

14 (B) Schools that have been designated by the ~~Department of~~
15 ~~Education~~ Division of Elementary and Secondary Education as being in school
16 improvement status under § 6-15-425 [repealed] or are located in a school
17 district in academic distress.
18

19 SECTION 1826. Arkansas Code § 6-45-107 is amended to read as follows:

20 6-45-107. Publication of funding availability and program criteria.

21 The ~~Department of Education~~ Division of Elementary and Secondary
22 Education shall annually provide notification to school districts and to
23 other appropriate providers of the availability of funds under the Arkansas
24 Better Chance Program and shall include in such notification the programmatic
25 standards and criteria for determination of eligibility for funding under the
26 program.
27

28 SECTION 1827. Arkansas Code § 6-45-108 is amended to read as follows:

29 6-45-108. Criteria for determining need.

30 (a)(1) All children three (3) years of age and four (4) years of age
31 who are members of a family with a gross family income not exceeding two
32 hundred percent (200%) of the federal poverty guidelines are eligible to
33 attend an Arkansas Better Chance for School Success Program if there is a
34 program available in the school district where the child resides and if there
35 is available space for the child to attend the program.

36 (2) The ~~Department of Education~~ Division of Elementary and

1 Secondary Education and the Division of Child Care and Early Childhood
2 Education may develop a fee schedule and establish eligibility based on
3 family income for children who are not eligible under subdivision (a)(1) of
4 this section, but priority enrollment shall be allowed to children eligible
5 under subdivision (a)(1) of this section.

6 (b) The ~~department~~ Division of Elementary and Secondary Education and
7 the ~~division~~ Division of Child Care and Early Childhood Education shall
8 review various criteria for identifying and targeting the areas of the state
9 with the greatest need for early childhood programs.

10 (c) The State Board of Education, with the advice and assistance of
11 the ~~division~~ Division of Child Care and Early Childhood Education, shall
12 adopt the appropriate criteria for identifying Arkansas children with the
13 greatest need to participate in Arkansas Better Chance for School Success
14 Program-funded early childhood programs.

15
16 SECTION 1828. Arkansas Code § 6-45-109(b), concerning the
17 certification by the Division of Child Care and Early Childhood Education
18 regarding the Arkansas Better Chance Program, is amended to read as follows:

19 (b) Upon certification of the child care facilities, the ~~division~~
20 Division of Child Care and Early Childhood Education shall provide a listing
21 of all certified facilities and their certification numbers to the ~~Director~~
22 Secretary of the Department of Finance and Administration for the purpose of
23 the income tax credit or refund provided for in §§ 26-51-502 and 26-51-507.

24
25 SECTION 1829. Arkansas Code § 6-45-110(a)(2)(B), concerning the
26 assessment of children enrolled in the Arkansas Better Chance Program, is
27 amended to read as follows:

28 (B) The ~~division~~ Division of Child Care and Early
29 Childhood Education and the ~~Department of Education~~ Division of Elementary
30 and Secondary Education shall work cooperatively to ensure that the
31 assessments are conducted as required by this section.

32
33 SECTION 1830. Arkansas Code § 6-46-101(c), concerning the creation of
34 the Arkansas High Technology Training Center, is amended to read as follows:

35 (c) The center shall also offer courses to adults to enhance their
36 competencies and capabilities in high-technology careers in coordination with

1 the Adult Education Section of the ~~Department of Career Education~~ Division of
2 Workforce Services.

3
4 SECTION 1831. Arkansas Code § 6-46-202 is amended to read as follows:
5 6-46-202. Funding.

6 The Arkansas High Technology Training Center shall be funded by moneys
7 appropriated by the General Assembly for the operation of the center and by
8 such grants, contributions, or donations that may be received by the
9 ~~Department~~ Division of Career and Technical Education for the support of the
10 center.

11
12 SECTION 1832. Arkansas Code § 6-46-302 is amended to read as follows:
13 6-46-302. Rules and regulations – Administration generally.

14 (a) The ~~Department~~ Division of Career and Technical Education shall
15 supervise the Arkansas High Technology Training Center and is hereby
16 authorized and empowered to promulgate rules and regulations that may be
17 necessary to carry out the provisions of this chapter.

18 (b) The ~~department~~ division shall develop a plan for the structure,
19 operation, and funding of the center.

20
21 SECTION 1833. Arkansas Code § 6-46-303 is amended to read as follows:
22 6-46-303. Budget.

23 (a) The ~~Department~~ Division of Career and Technical Education shall
24 prepare the fiscal year budget request for the Arkansas High Technology
25 Training Center's operation, which shall be submitted to the ~~Career Education~~
26 ~~and Workforce Development Board~~ State Board of Education for inclusion in the
27 fiscal year budget request of the ~~department~~ Division of Career and Technical
28 Education for funding programs from the ~~Department~~ Division of Career and
29 Technical Education Fund Account.

30 (b) The ~~department~~ Division of Career and Technical Education is
31 authorized and empowered to receive contributions, donations, gifts, bequests
32 of money, other forms of financial assistance, and property, equipment,
33 materials, or personnel, from persons, foundations, trust funds,
34 corporations, organizations, and other sources, private or public, to be
35 expended and utilized for the operation of the center.

36

1 SECTION 1834. Arkansas Code § 6-46-304 is amended to read as follows:
2 6-46-304. Training contracts.

3 The ~~Department~~ Division of Career and Technical Education may contract
4 with private or public business enterprises or other government agencies to
5 perform customized high technology training for the benefit of those
6 contracting parties.

7
8 SECTION 1835. Arkansas Code § 6-46-401 is amended to read as follows:
9 6-46-401. Chief administrative officer.

10 (a) The Director of the ~~Department~~ Division of Career and Technical
11 Education shall employ an administrator for the Arkansas High Technology
12 Training Center, who shall serve at the pleasure of the director.

13 (b) The administrator shall be the chief administrative officer of the
14 center and shall administer the center in accordance with the policies
15 established by the ~~Department~~ Division of Career and Technical Education.

16
17 SECTION 1836. Arkansas Code § 6-46-402 is amended to read as follows:
18 6-46-402. Other employees.

19 (a) The administrator and other personnel employed for the operation
20 of the Arkansas High Technology Training Center shall be employees of the
21 State of Arkansas, and the Department of Education.

22 (b) Faculty members and other personnel required for operation of the
23 center shall be recommended for employment by the administrator and shall be
24 employed by annual contract by the ~~Department~~ Division of Career and
25 Technical Education.

26 (c) Teachers and administrators so employed shall be eligible for
27 membership in the Arkansas Teacher Retirement System and earn credited
28 service for such employment.

29 (d) Noneducational personnel employed by the ~~Department~~ division shall
30 be eligible for membership in the Arkansas Public Employees' Retirement
31 System and earn credited service for such employment.

32
33 SECTION 1837. Arkansas Code § 6-46-501 is amended to read as follows:
34 6-46-501. Technical assistance.

35 The ~~Department~~ Division of Career and Technical Education, the
36 ~~Department~~ Division of Higher Education, the Arkansas Economic Development

1 Council, and the Arkansas Economic Development Commission shall provide
2 technical assistance to the Arkansas High Technology Training Center.

3
4 SECTION 1838. Arkansas Code § 6-46-502 is amended to read as follows:

5 6-46-502. Operation contracts.

6 The ~~Department~~ Division of Career and Technical Education shall also be
7 authorized to contract with other agencies and private research centers as it
8 may deem necessary to carry out its responsibilities for the operation of the
9 Arkansas High Technology Training Center.

10
11 SECTION 1839. Arkansas Code § 6-47-202 is amended to read as follows:

12 6-47-202. Administration in two-year colleges.

13 (a) The ~~Department~~ Division of Higher Education shall oversee and
14 coordinate the implementation of distance learning in two-year colleges,
15 four-year institutions of higher education, and universities in the state.

16 (b) The ~~Department~~ Division of Career and Technical Education shall
17 cooperate with the ~~Department~~ Division of Higher Education in implementing
18 the provisions of this section.

19
20 SECTION 1840. Arkansas Code § 6-47-203 is amended to read as follows:

21 6-47-203. ~~Department of Education~~ Division of Elementary and Secondary
22 Education and ~~Department~~ Division of Higher Education – Cooperation, report,
23 and implementation.

24 (a) The ~~Department of Education~~ Division of Elementary and Secondary
25 Education and the ~~Department~~ Division of Higher Education shall work together
26 to implement distance learning throughout the state.

27 (b) The ~~Department of Education~~ Division of Elementary and Secondary
28 Education and the ~~Department~~ Division of Higher Education shall present a
29 report to the House Committee on Education and the Senate Committee on
30 Education by December 31, 1999, reporting the status and progress of distance
31 learning in Arkansas.

32 (c) The ~~Department of Education~~ Division of Elementary and Secondary
33 Education and the ~~Department~~ Division of Higher Education shall not be
34 required to implement the provisions of this subchapter if funds are not made
35 available.

1 SECTION 1841. Arkansas Code § 6-47-302 is amended to read as follows:
2 6-47-302. Implementation in elementary and secondary schools – Courses
3 offered.

4 (a) The ~~Department of Education~~ Division of Elementary and Secondary
5 Education shall plan for the statewide implementation of distance learning in
6 elementary and secondary public schools in the state.

7 (b)(1) The elementary or secondary school may utilize courses from
8 outside the state if the out-of-state course provider is approved by the
9 ~~Department of Education~~ Division of Elementary and Secondary Education or the
10 ~~Department~~ Division of Career and Technical Education before the school
11 offers the courses through distance learning.

12 (2) A course offered through an approved out-of-state course
13 provider under this subsection shall follow ~~Department of Education~~ Division
14 of Elementary and Secondary Education course frameworks.

15 (c) The courses offered through distance learning may include college
16 preparatory courses, advanced mathematics and science courses, and
17 technological courses.

18 (d) The ~~Department of Education~~ Division of Elementary and Secondary
19 Education shall work with the Arkansas School for Mathematics, Sciences, and
20 the Arts, the Arkansas Educational Television Commission, the education
21 service cooperatives, the Arkansas State Library, and other state agencies
22 involved in distance learning.

23
24 SECTION 1842. Arkansas Code § 6-47-303 is amended to read as follows:
25 6-47-303. Coordination at institutions of higher education.

26 The ~~Department~~ Division of Higher Education shall coordinate the
27 implementation of distance learning at the state's public institutions of
28 higher education.

29
30 SECTION 1843. Arkansas Code § 6-47-304 is amended to read as follows:

31 6-47-304. ~~Department~~ Division of Career and Technical Education to
32 cooperate with ~~Department of Education~~ Division of Elementary and Secondary
33 Education and ~~Department~~ Division of Higher Education.

34 The ~~Department~~ Division of Career and Technical Education shall
35 cooperate with the ~~Department of Education~~ Division of Elementary and
36 Secondary Education and the ~~Department~~ Division of Higher Education to

1 implement distance learning throughout the state.

2

3 SECTION 1844. Arkansas Code § 6-47-403(2) and (3), concerning the
4 definitions of "commission" and "department" under the laws governing
5 distance learning, are repealed

6 ~~(2) "Commissioner" means the Commissioner of Education;~~

7 ~~(3) "Department" means the Department of Education;~~

8

9 SECTION 1845. Arkansas Code § 6-47-404(a), concerning the creation and
10 implementation of the Arkansas Distance Learning Development Program, is
11 amended to read as follows:

12 (a) There is established the Arkansas Distance Learning Development
13 Program, which shall be conducted by the ~~Department of Education~~ Division of
14 Elementary and Secondary Education and administered through the Commissioner
15 of Elementary and Secondary Education.

16

17 SECTION 1846. Arkansas Code § 6-47-404(c)(3)(A), concerning the
18 creation and implementation of the Arkansas Distance Learning Development
19 Program, is amended to read as follows:

20 (3)(A) All donations, grants, and appropriations received shall
21 be accounted for by the ~~department~~ division.

22

23 SECTION 1847. Arkansas Code § 6-47-406(a)(3), concerning the public
24 school district and the charter school distance learning program, is amended
25 to read as follows:

26 (3) The public school or open-enrollment public charter school
27 teaches or offers a distance learning course that has been approved by or
28 otherwise complies with ~~Department of Education~~ Division of Elementary and
29 Secondary Education rules and standards governing distance learning courses.

30

31 SECTION 1848. Arkansas Code § 6-47-406(b), concerning the public
32 school district and the charter school distance learning program, is amended
33 to read as follows:

34 (b) The State Board of Education shall adopt rules to allow the
35 Commissioner of Elementary and Secondary Education to waive the requirements
36 under subdivisions (a)(1) and (2) of this section on an individual basis for

1 a student who is unable to attend due to conditions that prevent the child
2 from physically attending a public school or an open-enrollment public
3 charter school.

4
5 SECTION 1849. Arkansas Code § 6-47-406(f), concerning the public
6 school district and the charter school distance learning program, is amended
7 to read as follows:

8 (f)(1) Before a public school district or open-enrollment public
9 charter school offers or teaches to public school students, home-schooled
10 students, or private school students distance learning courses that are not
11 part of the curriculum required by the Standards for Accreditation of
12 Arkansas Public Schools and School Districts established by the state board,
13 the open-enrollment public school district or public charter school first
14 shall obtain approval of the distance learning courses by the ~~department~~
15 division.

16 (2) A course offered under this subsection shall follow
17 ~~Department~~ division course frameworks.

18
19 SECTION 1850. Arkansas Code § 6-47-502 is amended to read as follows:
20 6-47-502. Distance learning grants.

21 (a)(1) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education shall develop grant standards and provide grants to
23 education service cooperatives for acquiring equipment and receiving
24 telecommunications services necessary for each school district to have
25 distance learning availability.

26 (2) The grants shall be used to assist school districts that do
27 not have distance learning capabilities and to assist school districts in
28 upgrading existing distance learning capabilities.

29 (3) The grants shall also be used by the education service
30 cooperatives to provide technical assistance to the school districts in
31 implementing and maintaining distance learning as an educational tool.

32 (b)(1) The ~~Department of Education~~ Division of Elementary and
33 Secondary Education shall:

34 (A) Establish, by rule, standards for eligible equipment
35 and telecommunications services; and

36 (B) Oversee the efficient operation and use of the system

1 pursuant to law.

2 (2) Each school district shall have adequate connectivity to
3 provide quality of service for distance learning.

4 (3) The distance learning technical protocol or protocols shall
5 be in alignment with technical standards set by the Director of the
6 ~~Department~~ Division of Information Systems.

7 (c) Education service cooperatives and school districts shall
8 coordinate with the ~~department~~ Division of Elementary and Secondary Education
9 to seek to obtain the benefits of the Federal Communications Commission's E-
10 rate program.

11

12 SECTION 1851. Arkansas Code § 6-48-101 is amended to read as follows:
13 6-48-101. Definitions.

14 As used in this chapter:

15 (1)(A)(i) "Alternative learning environment" means an alternate
16 class or program within a public school or school district that affords all
17 students an environment that seeks to eliminate barriers to learning for any
18 student whose academic and social progress is negatively affected by the
19 student's personal characteristics or situation.

20 (ii) The ~~Department of Education~~ Division of
21 Elementary and Secondary Education shall by rule more fully define the
22 student's personal characteristics and situations applicable under this
23 chapter.

24 (B) An alternative learning environment is not a punitive
25 environment but one that is conducive to learning.

26 (C) An alternative learning environment is not a separate
27 school for the purposes of this title even if the ~~department~~ Division of
28 Elementary and Secondary Education assigns the alternative learning
29 environment a separate local education agency number; and

30 (2) "Intervention services" means activities within or outside a
31 school that will eliminate traditional barriers to learning.

32

33 SECTION 1852. Arkansas Code § 6-48-102(a)(1), concerning the
34 requirement for alternative learning environments and reporting, is amended
35 to read as follows:

36 (a)(1) A school district shall provide one (1) or more alternative

1 learning environments for all students who meet the minimum criteria
2 established by the ~~Department of Education~~ Division of Elementary and
3 Secondary Education.

4
5 SECTION 1853. Arkansas Code § 6-48-102(b), concerning the requirement
6 for alternative learning environments and reporting, is amended to read as
7 follows:

8 (b) Annually, a school district shall submit to the ~~department~~
9 division:

10 (1) Information on race and gender of the students educated in
11 the alternative learning environment;

12 (2) Any other information regarding students educated in
13 alternative learning environments that the ~~department~~ division requires by
14 rule; and

15 (3) An assurance statement that the school district is in
16 compliance with this chapter.

17
18 SECTION 1854. Arkansas Code § 6-48-104 is amended to read as follows:

19 6-48-104. ~~Department of Education~~ Division of Elementary and Secondary
20 Education responsibilities.

21 (a) The ~~Department of Education~~ Division of Elementary and Secondary
22 Education shall promulgate rules to implement this chapter, including without
23 limitation rules that establish:

24 (1)(A) The criteria for distributing state funding for
25 alternative learning environment programs.

26 (B) The criteria shall identify the characteristics of
27 students who may be counted for the purpose of funding an alternative
28 learning environment program including without limitation that a student is
29 educated in the alternative learning environment for a minimum of twenty (20)
30 consecutive days.

31 (C) If a student is educated in the alternative learning
32 environment for fewer than twenty (20) days, the ~~department~~ division may
33 provide funding to a school district based on the actual number of days the
34 student is educated in the alternative learning environment if the student:

35 (i) Leaves the school district to transfer to
36 another alternative learning environment; or

1 (ii) Is placed in a residential treatment program;

2 (2)(A) The criteria for teacher training for teachers in
3 alternative learning environments, including without limitation:

4 (i) In-service training in classroom management; and

5 (ii) Training in additional areas related to the
6 specific needs and characteristics of students who are educated in
7 alternative learning environments.

8 (B) The ~~department~~ division shall award professional
9 development credit for the training under this subdivision (a)(2); and

10 (3) Measures of effectiveness for alternative learning
11 environments that measure:

12 (A) For the students educated in the alternative learning
13 environment the effect on the students':

14 (i) School performance;

15 (ii) Need for intervention; and

16 (iii) School attendance and dropout rate; and

17 (B) Any other characteristic of alternative learning
18 environments deemed necessary by the ~~department~~ division.

19 (b)(1) As part of the ~~department's~~ division's accreditation review of
20 a school district under § 6-15-202, the ~~department~~ division shall evaluate
21 each alternative learning environment to ensure that the alternative learning
22 environment is:

23 (A) Established and operated in compliance with this
24 chapter; and

25 (B) Effective under the measurements established by the
26 ~~department~~ division under this section.

27 (2) The ~~department~~ division shall identify a school district's
28 noncompliance with this chapter on the school district's annual report card.

29 (c) The ~~department~~ division shall identify information concerning best
30 practices for educating students in alternative learning environments and
31 disseminate that information to teachers and administrators working in
32 alternative learning environments.

33 (d) Annually by September 15, the ~~department~~ division shall provide to
34 the House Committee on Education and the Senate Committee on Education a
35 report on:

36 (1) The information reported to it under § 6-48-102; and

1 (2) The effectiveness of alternative learning environments
2 evaluated under this chapter.

3
4 SECTION 1855. Arkansas Code § 6-50-101 is amended to read as follows:

5 6-50-101. Contracts with private organizations.

6 The Director of the ~~Department~~ Division of Career and Technical
7 Education is hereby authorized to enter into contracts with private
8 organizations licensed by the State Board of ~~Career~~ Education in order to
9 provide vocational-technical training to citizens of the State of Arkansas.

10
11 SECTION 1856. Arkansas Code § 6-50-103(a)(1), concerning participation
12 in vocational student organizations, is amended to read as follows:

13 (a)(1) The ~~Department~~ Division of Career and Technical Education may
14 reimburse secondary vocational centers and other public schools in Arkansas
15 for dues, membership fees, supplies, travel, lodging, and other expenses
16 related to a student's participation in vocational student organizations.

17
18 SECTION 1857. Arkansas Code § 6-50-201(a), concerning the creation of
19 the Arkansas Technical Careers Student Loan Forgiveness Program, is amended
20 to read as follows:

21 (a) There is hereby established a program to be known as the Arkansas
22 Technical Careers Student Loan Forgiveness Program, to be administered by the
23 State Board of ~~Career~~ Education through the ~~Department~~ Division of Career and
24 Technical Education.

25
26 SECTION 1858. The introductory language of Arkansas Code § 6-50-203,
27 concerning the administration of the Arkansas Technical Careers Student Loan
28 Forgiveness Program, is amended to read as follows:

29 The State Board of ~~Career~~ Education through the ~~Department~~ Division of
30 Career and Technical Education shall administer the Arkansas Technical
31 Careers Student Loan Forgiveness Program and shall have the following
32 authority with respect to the program:

33
34 SECTION 1859. Arkansas Code § 6-50-204 is amended to read as follows:

35 6-50-204. Institutional eligibility.

36 The institution to be attended under the loan forgiveness program must

1 be approved by the ~~Career Education and Workforce Development Board~~ State
2 Board of Education, the Arkansas Higher Education Coordinating Board, or the
3 ~~Department~~ Division of Higher Education to offer training in the technical
4 field chosen by the applicant.

5
6 SECTION 1860. Arkansas Code § 6-50-205(a), concerning the approval and
7 priorities of educational programs for the Arkansas Technical Careers Student
8 Loan Forgiveness Program, is amended to read as follows:

9 (a) The State Board of ~~Career~~ Education shall consider comments and
10 suggestions from the ~~Department~~ Division of Higher Education, the Arkansas
11 Higher Education Coordinating Board, the Arkansas Economic Development
12 Council, the ~~Department~~ Division of Workforce Services, the Arkansas State
13 Chamber of Commerce, and other appropriate entities annually to develop and
14 publish a list of technical education programs that are approved for this
15 program.

16
17 SECTION 1861. Arkansas Code § 6-50-207(c), concerning the amount of
18 loan forgiveness, is amended to read as follows:

19 (c) With input from the ~~Department~~ Division of Higher Education and
20 other appropriate entities, the State Board of ~~Career~~ Education shall
21 establish through rules and regulations loan forgiveness amounts for approved
22 technical education programs for students enrolled on a less than full-time
23 basis.

24
25 SECTION 1862. Arkansas Code § 6-50-503(a), concerning the
26 establishment of a youth apprenticeship/work-based learning program, is
27 amended to read as follows:

28 (a) The ~~Department~~ Division of Career and Technical Education is
29 hereby authorized and directed to develop and implement a youth
30 apprenticeship/work-based learning program to provide additional educational
31 and training opportunities for noncollege-bound Arkansas high school
32 students.

33
34 SECTION 1863. Arkansas Code § 6-50-504(a), concerning demonstration
35 youth apprenticeship programs, is amended to read as follows:

36 (a) The ~~Department~~ Division of Career and Technical Education shall

1 implement during the 1991-1993 biennium at least five (5) demonstration youth
2 apprenticeship programs.

3
4 SECTION 1864. Arkansas Code § 6-50-703(a), concerning the creation and
5 purpose of the Arkansas Existing Workforce Training Program, is amended to
6 read as follows:

7 (a) There is hereby created the Arkansas Existing Workforce Training
8 Program, to be administered by a governing council composed of equal
9 representation from the ~~Department~~ Division of Higher Education, the
10 ~~Department~~ Division of Career and Technical Education, and the Arkansas
11 Economic Development Commission.

12
13 SECTION 1865. Arkansas Code § 6-51-205(b), concerning the Career
14 Education and Workforce Development Board's responsibility for school
15 operation, personnel, and equipment, is amended to read as follows:

16 (b) The ~~state~~ board is authorized to employ personnel to set salaries
17 which shall be comparable to those received by other similarly positioned
18 personnel in the ~~Department of Education~~ Division of Elementary and Secondary
19 Education, and to negotiate leases or purchases with any and all agencies of
20 the ~~government of the~~ United States Government for the lease or purchase of
21 suitable facilities, equipment, machinery, and supplies to be used for the
22 purposes authorized by this section and §§ 6-51-201 – 6-51-203, 6-51-207, 6-
23 51-208(a)-(c), 6-51-209, and 6-51-210.

24
25 SECTION 1866. Arkansas Code § 6-51-208(d), concerning student fees, is
26 amended to read as follows:

27 (d) No secondary student or school shall be made to pay a tuition
28 charge as a condition of his or her enrollment in any vocational program
29 funded by the ~~Department of Education~~ Division of Elementary and Secondary
30 Education while enrolled in a regular high school program.

31
32 SECTION 1867. Arkansas Code § 6-51-213(c)(1), concerning the
33 administration of certain federal and state vocational education laws, is
34 amended to read as follows:

35 (c)(1) The Director of the ~~Department~~ Division of Career and Technical
36 Education, as executive officer of the board for the purpose of administering

1 the federal act and this act, shall, by and with the advice and consent of
2 the board, designate assistants as may be necessary to carry out properly the
3 provisions hereof.

4
5 SECTION 1868. Arkansas Code § 6-51-401(b), concerning the course of
6 instruction for vocational-technical training, is amended to read as follows:

7 (b) A prescribed course of study will be set up by the ~~Department~~
8 Division of Career and Technical Education in conjunction with the Plumbing
9 and Natural Gas Section of the Department of Health and the local training
10 committee.

11
12 SECTION 1869. Arkansas Code § 6-51-501(c)(1), concerning the creation
13 of state-supported technical institutes offering courses in building trades,
14 is amended to read as follows:

15 (c)(1) As used in this subchapter, "secondary area technical center"
16 means a secondary area vocational center established under § 6-13-801 et seq.
17 or as defined by the ~~Department~~ Division of Career and Technical Education.

18
19 SECTION 1870. Arkansas Code § 6-51-502(b), concerning the approval,
20 notification, requirements, and advance of funds for state-supported
21 technical institutes or secondary area technical centers, is amended to read
22 as follows:

23 (b) Upon receipt of written approval, the technical institute or
24 secondary area technical center shall notify the ~~Department~~ Division of
25 Career and Technical Education of its intent to undertake the construction of
26 a single family dwelling unit or other building project under the program
27 established in this subchapter.

28
29 SECTION 1871. Arkansas Code § 6-51-503 is amended to read as follows:
30 6-51-503. Procedure for purchase of lot.

31 When a technical institute is advanced funds from the Building Trades
32 Revolving Fund by the ~~Department~~ Division of Career and Technical Education
33 as provided in this subchapter, the technical institute shall, if it proposes
34 to purchase a lot on which to build the dwelling unit or other building
35 project, cause notice of the proposed purchase to be published in a newspaper
36 of general circulation in the area where it proposes to purchase the lot in

1 order to give persons in the area an opportunity to offer lots for sale to
2 the school for the construction of the dwelling unit or other building
3 project.

4
5 SECTION 1872. Arkansas Code § 6-51-504(a), concerning dwelling unit
6 construction, restrictions, and exemptions, is amended to read as follows:

7 (a) The ~~Department~~ Division of Career and Technical Education shall
8 not advance funds to a technical institute from the Building Trades Revolving
9 Fund created in this subchapter for the construction of more than one (1)
10 dwelling unit or other building project at any one (1) time or more than one
11 (1) dwelling unit or other building project in any twelve-month period.

12
13 SECTION 1873. Arkansas Code § 6-51-508(a) and (b), concerning the
14 remittance of proceeds, are amended to read as follows:

15 (a) All funds derived from reimbursement by a state agency or from the
16 sale of a dwelling unit or other building project constructed under the
17 provisions of this subchapter by a technical institute after deducting the
18 cost of the sale shall be remitted to the ~~Department~~ Division of Career and
19 Technical Education for deposit in the Building Trades Revolving Fund created
20 in this subchapter.

21 (b) Upon the sale of a dwelling unit or other building project
22 constructed under the provisions of this subchapter by a secondary area
23 technical center:

24 (1)(A) The secondary area technical center shall remit to the
25 ~~department~~ division the full amount of funds advanced for the project.

26 (B) The ~~department~~ division shall deposit the funds into
27 the Building Trades Revolving Fund created in this subchapter; and

28 (2) The remaining proceeds, if any, shall be retained or any
29 loss absorbed by the secondary area technical center.

30
31 SECTION 1874. Arkansas Code § 6-51-509, concerning the uses for the
32 Building Trades Revolving Fund, is amended to read as follows:

33 6-51-509. Uses for Building Trades Revolving Fund.

34 All funds appropriated for the program established in this subchapter
35 together with funds derived from the sale of property and remitted to the
36 ~~Department~~ Division of Career and Technical Education and deposited in the

1 Building Trades Revolving Fund shall be used exclusively for the purpose of
2 making advances to area vocational schools for the purchase of lots, building
3 materials, supplies, and fixtures necessary to construct dwellings or other
4 building projects on the lots and to otherwise carry out the purposes of this
5 subchapter.

6
7 SECTION 1875. Arkansas Code § 6-51-510 is amended to read as follows:
8 6-51-510. Disbursing officer.

9 The disbursing officer for the ~~Department~~ Division of Career and
10 Technical Education shall be disbursing officer for funds in the Building
11 Trades Revolving Fund.

12
13 SECTION 1876. Arkansas Code § 6-51-604 is amended to read as follows:
14 6-51-604. Notice of possible violations – Responses – Injunctions.

15 (a) In consultation with the State Board of Private Career Education
16 or its director acting for the board, if the ~~Department~~ Division of Higher
17 Education has probable cause to believe that a person, agent, group, or
18 entity has committed any acts that would be in violation of this subchapter
19 such as fraud, misrepresentation, or unethical practices, the ~~department~~
20 division shall first give notice in writing by certified mail or in person to
21 the agency or entity affected.

22 (b) The person, agent, or entity will have ten (10) days in which to
23 respond to the notice of violation, unless the ~~department~~ division deems an
24 emergency exists, in which case the entity will have up to twenty-four (24)
25 hours in which to respond.

26 (c)(1) If action on the part of the person, agent, or entity in
27 response to a notice is to seek to eliminate the violation, a further
28 extension of time may be granted by the ~~department~~ division.

29 (2) Otherwise, the ~~department~~ division may order a cease and
30 desist of such acts after a formal hearing, or the ~~department~~ division shall
31 have the duty to request the Attorney General or district prosecuting
32 attorney in the county where the offense was committed to seek in a court of
33 competent jurisdiction an injunction restraining the commission of such acts.

34
35 SECTION 1877. Arkansas Code § 6-51-605 is amended to read as follows:
36 6-51-605. State Board of Private Career Education.

1 (a)(1)(A) The Governor shall appoint a State Board of Private Career
2 Education of seven (7) members who shall serve for terms of seven (7) years.

3 (B) The Governor shall make appointments or reappointments
4 to the board to provide membership of three (3) persons associated with
5 schools and four (4) persons from the general public.

6 (2) The Director of the ~~Department~~ Division of Higher Education
7 and the Director of the ~~Department~~ Division of Career and Technical Education
8 or their designees shall serve as nonvoting, ex officio members of the board.

9 (b) The board may elect the necessary officers, acting by and through
10 the Director of the ~~Department~~ Division of Higher Education. In consultation
11 with the board, the ~~Department~~ Division of Higher Education shall have the
12 sole authority to:

13 (1) Approve all schools offering programs of study leading to or
14 enhancing an occupational objective;

15 (2) Administer and enforce this subchapter; and

16 (3) Issue licenses to schools that have met the standards set
17 forth for the purposes of this subchapter by the ~~Department~~ Division of
18 Higher Education, including without limitation programs of study, adequate
19 facilities, financial stability, qualified personnel, and legitimate
20 operating practices.

21 (c) Upon approval by the ~~Department~~ Division of Higher Education, any
22 such school may issue certificates or diplomas.

23 (d) The ~~Department~~ Division of Higher Education shall:

24 (1) Formulate the criteria and the standards evolved for the
25 approval of such licensed schools;

26 (2) Provide for adequate investigation of all schools applying
27 for a license;

28 (3) Issue licenses to those applicants meeting the standards
29 fixed by the ~~Department~~ Division of Higher Education; and

30 (4) Maintain a list of schools approved under the provisions of
31 this subchapter.

32 (e) The ~~Department~~ Division of Higher Education shall formulate the
33 standards evolved under this subchapter for the approval of admissions
34 representatives of such licensed schools and issue licenses to those
35 applicants meeting the standards fixed by the ~~Department~~ Division of Higher
36 Education.

1 (f) In consultation with the board, the ~~Department~~ Division of Higher
2 Education shall promulgate standards and rules to be prescribed for the
3 administration of this subchapter and the management and operation of the
4 schools and admissions representatives, subject to the provisions of this
5 subchapter.

6 (g) The ~~Department~~ Division of Higher Education shall participate in
7 the hearings provided to schools and admissions representatives in cases of
8 revocation or denial of licensure.

9 (h) Official meetings of the board may be called by the chair as
10 necessary, but meetings shall be held at least four (4) times a year.

11 (i) A majority of favorable votes by the board members at an official
12 meeting is required for adoption of a recommendation.

13 (j) Board members may be reimbursed for expenses in accordance with §
14 25-16-901 and stipends according to § 25-16-903.

15 (k) The board may adopt and use a seal, which may be used for the
16 authentication of the recommendations of the board.

17 (l) The board shall employ a director who reports to the board.

18 (m)(1) The ~~Department~~ Division of Higher Education shall annually
19 require background investigations for all partners or shareholders with ten
20 percent (10%) or more ownership interest in a school when the school seeks an
21 original license.

22 (2) The ~~Department~~ Division of Higher Education may establish a
23 schedule for periodic background checks for partners or shareholders with ten
24 percent (10%) or more ownership interest in a school when seeking renewal of
25 a school license.

26 (n)(1) The partners or shareholders shall apply to the Identification
27 Bureau of the ~~Department~~ Division of Arkansas State Police for a state and
28 national criminal background check to be conducted by the Federal Bureau of
29 Investigation.

30 (2) The check shall conform to the applicable federal standards
31 and shall include the taking of fingerprints.

32 (3) The applicant shall sign a release of information to the
33 board and shall be responsible to the ~~Department~~ Division of Arkansas State
34 Police for the payment of any fee associated with the criminal background
35 check.

36 (4) Upon completion of the criminal background check, the

1 Identification Bureau of the ~~Department~~ Division of Arkansas State Police
2 shall forward to the ~~Department~~ Division of Higher Education all information
3 obtained concerning the person in the commission of any offense listed in §
4 6-51-606(h)(3).

5 (5)(A) The ~~Department~~ Division of Higher Education may issue a
6 nonrenewable temporary license pending the results of the criminal background
7 check.

8 (B) The license shall be valid for no more than six (6)
9 months.

10 (C) Upon receipt of information from the Identification
11 Bureau of the ~~Department~~ Division of Arkansas State Police that only one (1)
12 of the partners or shareholders of the school holding the license has been
13 convicted of any offense listed in § 6-51-606(h)(3), the ~~Department~~ Division
14 of Higher Education shall revoke the license.

15 (o)(1) The provisions of § 6-51-606(h) may be waived by the ~~Department~~
16 Division of Higher Education upon the request of:

17 (A) An affected applicant for licensure; or

18 (B) The partners or shareholders of a school holding a
19 license subject to revocation.

20 (2) Circumstances for which a waiver may be granted shall
21 include, but not be limited to, the following:

22 (A) The age at which the crime was committed;

23 (B) The circumstances surrounding the crime;

24 (C) The length of time since the crime;

25 (D) Subsequent work history;

26 (E) Employment references;

27 (F) Character references; and

28 (G) Other evidence demonstrating that the applicant does
29 not pose a threat.

30 (p)(1) Any information received by the ~~Department~~ Division of Higher
31 Education from the Identification Bureau of the ~~Department~~ Division of
32 Arkansas State Police under this section shall not be available for
33 examination except by:

34 (A) The affected applicant for licensure or his or her
35 authorized representative; or

36 (B) The person whose license is subject to revocation or

1 his or her authorized representative.

2 (2) No record, file, or document shall be removed from the
3 custody of the ~~Department~~ Division of Arkansas State Police.

4 (q) Any information made available to the affected applicant for
5 licensure or the person whose license is subject to revocation shall be
6 information pertaining to that person only.

7 (r) Rights of privilege and confidentiality established in this
8 section shall not extend to any document created for purposes other than the
9 background check required by this section.

10 (s) In consultation with the board, the ~~Department~~ Division of Higher
11 Education shall adopt the necessary rules to fully implement the provisions
12 of this section.

13

14 SECTION 1878. Arkansas Code § 6-51-606(a), concerning school licenses,
15 is amended to read as follows:

16 (a) No persons shall operate, conduct, maintain, or offer to operate
17 in this state a school as defined in this subchapter, or solicit the
18 enrollment of students residing in the state, unless a license is first
19 secured from the ~~Department~~ Division of Higher Education issued in accordance
20 with the provisions of this subchapter and the rules promulgated by the
21 ~~department~~ division in consultation with the State Board of Private Career
22 Education.

23

24 SECTION 1879. Arkansas Code § 6-51-606(b)(1), concerning school
25 licenses, is amended to read as follows:

26 (b)(1) Application for a license shall be filed in the manner and upon
27 the forms prescribed and furnished by the ~~department~~ division for that
28 purpose.

29

30 SECTION 1880. Arkansas Code § 6-51-606(d), concerning school licenses,
31 is amended to read as follows:

32 (d) The license shall remain the property of the State of Arkansas and
33 shall be returned to the ~~department~~ division upon cause.

34

35 SECTION 1881. Arkansas Code § 6-51-606(e)(1), concerning school
36 licenses, is amended to read as follows:

1 (e)(1) If the ~~department~~ division, after evaluating the school as to
2 kind and type, is unable to make a determination regarding initial approval
3 of a licensure application within sixty (60) days of receipt of the
4 application and required documentation, it shall issue a temporary license
5 valid for a period of not more than six (6) months, pending an investigation.
6

7 SECTION 1882. Arkansas Code § 6-51-606(f), concerning school licenses,
8 is amended to read as follows:

9 (f) After a license is issued to any school by the ~~department~~ division
10 on the basis of its application, it shall be the responsibility of the school
11 to notify immediately the ~~department~~ division of any changes in the
12 ownership, administration, location, faculty, or programs of study on the
13 forms and in the manner prescribed by the ~~department~~ division.
14

15 SECTION 1883. Arkansas Code § 6-51-606(h)-(1), concerning school
16 licenses, is amended to read as follows:

17 (h) The ~~department~~ division shall have the power to deny issuing a new
18 or renewal license, to revoke an existing license, or to place a licensee on
19 probation, if in its discretion it determines that:

20 (1) The licensee has violated any of the provisions of this
21 subchapter or any of the rules of the ~~department~~ division;

22 (2) The applicant or licensee has knowingly presented to the
23 ~~department~~ division incomplete or misleading information relating to
24 licensure;

25 (3) The applicant or licensee has pleaded guilty, entered a plea
26 of nolo contendere, or has been found guilty in a criminal proceeding,
27 regardless of whether or not the adjudication of guilt or sentence is
28 withheld, deferred, or suspended by a court of this state, another state, or
29 the federal government, of:

30 (A) Any felony; or

31 (B) Any act involving moral turpitude, gross immorality,
32 or which is related to the qualifications, functions, and duties of a
33 licensee;

34 (4) The applicant or licensee has intentionally failed or
35 refused to permit the ~~department~~ division or its representatives to inspect
36 the school or classes or has intentionally failed or refused to make

1 available to the ~~department~~ division, at any time when requested to do so,
2 full information pertaining to any or all items of information contained in
3 an application for license or pertaining to the operation of the school;

4 (5) The applicant has failed or refused to submit to the
5 ~~department~~ division an application for license or renewal in the manner and
6 on the forms prescribed;

7 (6) A licensed admissions representative has failed or refused
8 to display or produce his or her license when requested to do so by
9 prospective students or designated officials of the ~~department~~ division;

10 (7) The applicant or licensee has failed to provide or maintain
11 premises, equipment, materials, supplies, or conditions in accordance with
12 minimum standards as established by rules;

13 (8) The licensee has been found by the ~~department~~ division or a
14 court of law to have perpetrated fraud or deceit in advertising of the school
15 or programs of study or in presenting to prospective students information
16 relating to the school, programs of study, employment opportunities, or
17 opportunities for enrollment in institutions of higher education;

18 (9) The licensee has in its employ admissions representatives
19 who have not been licensed but are actively engaged in the practice of
20 attempting to enroll students;

21 (10) The licensee has failed to provide and maintain standards
22 of instruction or qualified administrative, supervisory, or instructional
23 staff as established by rules;

24 (11) The applicant or licensee is unable to provide and maintain
25 financial resources in sufficient amount to equip and maintain the school or
26 classes;

27 (12) The licensee has moved the school into new premises or
28 facilities without first notifying the ~~department~~ division;

29 (13) The licensee has offered training or instruction in
30 programs of study which have not been approved and authorized in accordance
31 with rules;

32 (14) A licensed admissions representative has solicited
33 prospective students to enroll in a school which has not been licensed by the
34 ~~department~~ division or which is not listed on his or her license;

35 (15) There was a change in the ownership of the school without
36 proper notification to and approval from the ~~department~~ division;

1 (16) The licensee has failed to notify the ~~department~~ division
2 or to provide written documentation as to the cause that the license of a
3 school has been suspended or revoked or the school has been placed on
4 probation or a show cause issued in another state or by another regulatory
5 agency;

6 (17) The licensee has failed to notify the ~~department~~ division
7 of legal actions initiated by or against the school; or

8 (18) The licensee fails to make tuition refunds to the students
9 or their lenders in compliance with current rules.

10 (i) The ~~department~~ division shall have the power to revoke a license
11 if in its discretion it determines that:

12 (1) The licensee has failed to cure a deficiency leading to a
13 license probation within the time as may be reasonably prescribed by the
14 ~~department~~ division;

15 (2) The licensee while on probation has been found by the
16 ~~department~~ division to have incurred an additional infraction of this
17 subchapter; or

18 (3) The licensee has closed a school without first having
19 completed the training of all students currently enrolled or having made
20 tuition refunds to students or their lenders.

21 (j) The ~~department~~ division may impose sanctions under § 25-15-217.

22 (k)(1) Unless directed to do so by court order, the ~~department~~
23 division shall not, for a period of five (5) years following revocation,
24 reinstate the license of a school or allow an owner of any such school to
25 seek licensure of another school.

26 (2) Upon expiration of licensure status, the school must apply
27 for an original license in accordance with the provisions of this subchapter.

28 (1)(1) Upon closure of a school located in Arkansas and licensed under
29 any provision of this subchapter, whether for license revocation or any other
30 cause, all student financial aid records for the previous three (3) years and
31 all student transcripts regardless of age must be delivered to the ~~department~~
32 division.

33 (2) Delivered records shall be arranged in alphabetical order
34 and stored in boxes or in data format at the discretion of the ~~department~~
35 division.

36 (3) The ~~department~~ division shall be responsible for the proper

1 security, storage, and maintenance of all such records.

2
3 SECTION 1884. Arkansas Code § 6-51-607(a)(1) and (2), concerning the
4 Private Career School Student Protection Trust Fund, is amended to read as
5 follows:

6 (a)(1) Each school licensed under this subchapter shall pay annually a
7 fee to be set by the ~~Department~~ Division of Higher Education in consultation
8 with the State Board of Private Career Education.

9 (2) The fee shall be set at the amount the ~~department~~ division
10 deems necessary to establish the Private Career School Student Protection
11 Trust Fund and to maintain the ~~Private Career School Student Protection Trust~~
12 ~~Fund~~ fund as necessary.

13 (3) For a renewing school, the fee shall be based on the
14 enrollment of Arkansas residents in the preceding twelve (12) months of July
15 1 through June 30.

16 (4)(A) For an original license, the fee shall be a percentage as
17 determined by the ~~department~~ division of the sum of the tuitions for each
18 program offered.

19 (B) Additionally, during the first twelve (12) months of
20 licensure, the same percentage shall be paid to the Private Career School
21 Student Protection Trust Fund on additional new programs of study.

22
23 SECTION 1885. Arkansas Code § 6-51-607(c)(2)(A), concerning the
24 Private Career School Student Protection Trust Fund, is amended to read as
25 follows:

26 (2)(A) However, regardless of the balance in the ~~Private Career~~
27 ~~School Student Protection Trust Fund~~ fund, a fee, as set by the ~~department~~
28 division, will be assessed newly licensed schools.

29
30 SECTION 1886. Arkansas Code § 6-51-607(d)(1), concerning the Private
31 Career School Student Protection Trust Fund, is amended to read as follows:

32 (d)(1) The assets of the ~~Private Career School Student Protection~~
33 ~~Trust Fund~~ fund may be invested and reinvested as the ~~department~~ division may
34 determine.

35
36 SECTION 1887. The introductory language of Arkansas Code § 6-51-

1 607(e), concerning the Private Career School Student Protection Trust Fund,
2 is amended to read as follows:

3 (e) The ~~department~~ division may use any amounts in the ~~Private Career~~
4 ~~School Student Protection Trust Fund~~ fund, including accumulated interest,
5 to:

6
7 SECTION 1888. The introductory language of Arkansas Code § 6-51-
8 607(f), concerning the Private Career School Student Protection Trust Fund,
9 is amended to read as follows:

10 (f) Any amounts in the ~~Private Career School Student Protection Trust~~
11 ~~Fund~~ fund above the required five hundred thousand dollars (\$500,000) may be
12 used with the approval of the Director of the ~~Department~~ Division of Higher
13 Education to:

14
15 SECTION 1889. Arkansas Code § 6-51-607(g)(1) and (2), concerning the
16 Private Career School Student Protection Trust Fund, are amended to read as
17 follows:

18 (g)(1) If a school closes, the ~~department~~ division shall attempt to
19 place each student of the school in another school.

20 (2) If the student cannot be placed in another school, the
21 student's tuition for which education has not been received may be refunded
22 on a prorated basis in the manner prescribed by the ~~department~~ division.
23

24 SECTION 1890. Arkansas Code § 6-51-608(a)(1), concerning extension
25 course sites, satellite schools, and additional school licenses, is amended
26 to read as follows:

27 (a)(1) Any school licensed under this subchapter shall make
28 application to the ~~Department~~ Division of Higher Education to offer a course
29 or courses at an extension course site or satellite school.
30

31 SECTION 1891. Arkansas Code § 6-51-608(b), concerning extension course
32 sites, satellite schools, and additional school licenses, is amended to read
33 as follows:

34 (b) The school will be assessed a fee as set by the ~~department~~
35 division to be deposited in the Private Career School Student Protection
36 Trust Fund.

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SECTION 1892. Arkansas Code § 6-51-609(a), concerning an admissions representative's license, is amended to read as follows:

(a) A person representing a resident, distance education, or combination school shall not solicit or sell in Arkansas any program of study for consideration or remuneration unless the admissions representative first secures a license from the ~~Department~~ Division of Higher Education.

SECTION 1893. Arkansas Code § 6-51-609(c)(2), concerning an admissions representative's license, is amended to read as follows:

(2)(A) The license shall be endorsed by the Director of the ~~Department~~ Division of Higher Education.

(B) The license shall remain the property of the State of Arkansas and shall be returned to the ~~Department~~ Division of Higher Education upon cause.

SECTION 1894. Arkansas Code § 6-51-609(d)(6), concerning an admissions representative's license, is amended to read as follows:

(6) Be in compliance with any other reasonable qualifications that the ~~Department~~ Division of Higher Education may fix by rule.

SECTION 1895. Arkansas Code § 6-51-609(e)(1), concerning an admissions representative's license, is amended to read as follows:

(e)(1) An applicant for an admissions representative's license shall apply to the Identification Bureau of the ~~Department~~ Division of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

SECTION 1896. Arkansas Code § 6-51-609(e)(3), concerning an admissions representative's license, is amended to read as follows:

(3) The applicant shall sign a release of information to the ~~Department~~ Division of Higher Education and shall be responsible to the ~~Department~~ Division of Arkansas State Police for the payment of any fee associated with the criminal background check.

SECTION 1897. Arkansas Code § 6-51-609(f)(1)(A), concerning an

1 admissions representative's license, is amended to read as follows:

2 (f)(1)(A) The ~~Department~~ Division of Higher Education may issue a
3 nonrenewable temporary license pending the results of the criminal background
4 check.

5

6 SECTION 1898. Arkansas Code § 6-51-609(f)(2), concerning an admissions
7 representative's license, is amended to read as follows:

8 (2) Upon receipt of information from the Identification Bureau
9 of the ~~Department~~ Division of Arkansas State Police that the person holding
10 the temporary license has been convicted of a felony, Class A misdemeanor, or
11 a crime involving an act of violence for which a pardon has not been granted,
12 the ~~Department~~ Division of Higher Education shall immediately revoke the
13 temporary license.

14

15 SECTION 1899. The introductory language of Arkansas Code § 6-51-
16 609(g)(1), concerning an admissions representative's license, is amended to
17 read as follows:

18 (g)(1) The provisions of subdivision (d)(3) of this section may be
19 waived by the ~~Department~~ Division of Higher Education upon the request of:

20

21 SECTION 1900. The introductory language of Arkansas Code § 6-51-
22 609(h)(1), concerning an admissions representative's license, is amended to
23 read as follows:

24 (h)(1) Any information received by the ~~Department~~ Division of Higher
25 Education from the Identification Bureau of the ~~Department~~ Division of
26 Arkansas State Police under this section shall not be available for
27 examination except by:

28

29 SECTION 1901. Arkansas Code § 6-51-609(h)(2), concerning an admissions
30 representative's license, is amended to read as follows:

31 (2) A record, file, or document shall not be removed from the
32 custody of the ~~Department~~ Division of Arkansas State Police.

33

34 SECTION 1902. Arkansas Code § 6-51-609(k), concerning an admissions
35 representative's license, is amended to read as follows:

36 (k) In consultation with the State Board of Private Career Education,

1 the ~~Department~~ Division of Higher Education shall adopt the necessary rules
2 to fully implement the provisions of this section.

3
4 SECTION 1903. Arkansas Code § 6-51-610(a), concerning fees for schools
5 and admission representatives, is amended to read as follows:

6 (a) In consultation with the State Board of Private Career Education,
7 the ~~Department~~ Division of Higher Education shall set fees for schools and
8 admissions representatives.

9
10 SECTION 1904. Arkansas Code § 6-51-611(b), concerning school license
11 renewal, is amended to read as follows:

12 (b) The licensing period shall be determined by the ~~Department~~
13 Division of Higher Education.

14
15 SECTION 1905. Arkansas Code § 6-51-611(c)(1), concerning license
16 renewal, is amended to read as follows:

17 (c)(1) Application for renewal of a school license is to be provided
18 in the form and manner prescribed by the ~~department~~ division.

19
20 SECTION 1906. Arkansas Code § 6-51-611(d), concerning license renewal,
21 is amended to read as follows:

22 (d) An application for renewal of an admissions representative's
23 license shall be made on the forms and in the manner prescribed by the
24 ~~department~~ division.

25
26 SECTION 1907. Arkansas Code § 6-51-614(a), concerning denial,
27 probation, revocation, and review of school licenses, is amended to read as
28 follows:

29 (a) The ~~Department~~ Division of Higher Education shall have the
30 authority to refuse to issue a school license, to place on probation, or to
31 revoke a school license theretofore issued.

32
33 SECTION 1908. Arkansas Code § 6-51-615(b), concerning denial,
34 suspension, review, and penalties regarding admissions representative's
35 licenses, is amended to read as follows:

36 (b) The Director of the ~~Department~~ Division of Higher Education, upon

1 receipt of information considered dependable which indicates fraud,
2 misrepresentation, or unethical practices on the part of an applicant, may
3 deny issuance of a license applied for or may suspend immediately a license
4 already issued pending a review by the ~~Department~~ Division of Higher
5 Education.

6
7 SECTION 1909. Arkansas Code § 6-51-617(b)(1), concerning the Private
8 Career Education Arbitration Panel, is amended to read as follows:

9 (b)(1) In consultation with the State Board of Private Career
10 Education, the Director of the ~~Department~~ Division of Higher Education shall
11 appoint the arbitration panel, which shall be composed of three (3) members.
12 One (1) member shall be from the school sector, and two (2) members shall be
13 from the general public.

14
15 SECTION 1910. Arkansas Code § 6-51-618 is amended to read as follows:
16 6-51-618. Fines.

17 (a) When the ~~Department~~ Division of Higher Education finds that a
18 school is guilty of a violation of this subchapter or the rules of the
19 ~~department~~ division, it shall have the power and authority to impose a
20 penalty on the school.

21 (b) Prior to the imposition of any penalty, the ~~department~~ division
22 shall hold an investigation and hearing after notice to the school.

23 (c)(1) Upon imposition of a penalty, the ~~department~~ division shall
24 have the power and authority to require that the school pay a penalty to the
25 ~~department~~ division with regard to the violation, with the sanction that the
26 license may be suspended until the penalty is paid.

27 (2) No penalty imposed by the ~~department~~ division may exceed
28 five hundred dollars (\$500) per violation.

29 (d) Any school dissatisfied with the penalties imposed may seek
30 judicial review, provided the school files notice of appeal in Pulaski County
31 Circuit Court within fifteen (15) calendar days immediately following the
32 date of notification of this action by the Director of the ~~Department~~
33 Division of Higher Education.

34 (e) The power and authority of the ~~department~~ division to impose these
35 penalties shall not be affected by any other civil or criminal proceeding
36 concerning the same violation.

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SECTION 1911. Arkansas Code § 6-51-619 is amended to read as follows:
6-51-619. Subpoenas and subpoenas duces tecum.

(a) The ~~Department~~ Division of Higher Education shall have the power to issue subpoenas and subpoenas duces tecum in connection with both its investigations and hearings.

(b) A subpoena duces tecum may require any book, writing, document, or other paper or thing which is germane to an investigation or hearing conducted by the ~~department~~ division.

(c)(1) Service of a subpoena shall be as provided by law for the service of subpoenas in civil cases in the circuit courts of this state, and the fees and mileage of officers serving the subpoenas and of witnesses appearing in answer to the subpoenas shall be the same as provided by law for proceedings in civil cases in the circuit courts of this state.

(2)(A) The ~~department~~ division shall issue a subpoena or subpoena duces tecum upon the request of any party to a hearing before the ~~department~~ division.

(B) The fees and mileage of the officers serving the subpoena and of the witness shall be paid by the party at whose request a witness is subpoenaed.

(d)(1) In the event a person shall have been served with a subpoena or subpoena duces tecum as provided in this section and fails to comply therewith, the ~~department~~ division may apply to the circuit court of the county in which the ~~department~~ division is conducting its investigation or hearing for an order causing the arrest of the person and directing that the person be brought before the court.

(2) The court shall have the power to punish the disobedient person for contempt as provided by law in the trial of civil cases in the circuit courts of this state.

SECTION 1912. Arkansas Code § 6-51-620(a)(2), concerning the requirement of a school to maintain a surety bond while licensed, is amended to read as follows:

(2) The surety bond shall be submitted to the ~~Department~~ Division of Higher Education on or before the expiration date of the bond.

1 SECTION 1913. Arkansas Code § 6-51-620(a)(4)(A)(i), concerning the
2 requirement of a school to maintain a surety bond while licensed, is amended
3 to read as follows:

4 (i) A violation of a provision of this subchapter or
5 any rule of the ~~department~~ division by the school or its officers, admissions
6 representatives, or employees;

7
8 SECTION 1914. Arkansas Code § 6-51-620(a)(4)(C)(ii), concerning the
9 requirement of a school to maintain a surety bond while licensed, is amended
10 to read as follows:

11 (ii) The ~~department~~ division shall notify the school
12 in writing at least ten (10) days prior to release of the surety or sureties
13 that the license is suspended until another surety bond is filed in the
14 manner and amount required under this ~~chapter~~ subchapter.

15
16 SECTION 1915. Arkansas Code § 6-51-620(a)(5)(A), concerning the
17 requirement of a school to maintain a surety bond while licensed, is amended
18 to read as follows:

19 (5)(A) The bond shall be based on gross tuition, meaning the
20 total amount collected by a school during the most recently completed twelve-
21 month fiscal year, reduced only by the amount of refunds paid during the
22 fiscal year, for tuition, application fees, registration fees, and those
23 other fees deemed appropriate by rule of the ~~department~~ division;

24
25 SECTION 1916. The introductory language of Arkansas Code § 6-51-
26 620(a)(6), concerning the requirement of a school to maintain a surety bond
27 while licensed, is amended to read as follows:

28 (6) The ~~department~~ division shall determine the sum of each
29 surety bond based upon the following guidelines:

30
31 SECTION 1917. Arkansas Code § 6-51-620(a)(6)(A), concerning the
32 requirement of a school to maintain a surety bond while licensed, is amended
33 to read as follows:

34 (A) Except as provided in subdivisions (a)(6)(B) and (C)
35 of this section, a school shall procure and maintain a bond equal to ten
36 percent (10%) of the gross tuition with a minimum bond amount of five

1 thousand dollars (\$5,000) with the maximum bond amount to be determined by
2 the ~~department~~ division;

3
4 SECTION 1918. Arkansas Code § 6-51-620(b), concerning the requirement
5 of a school to maintain a surety bond while licensed, is amended to read as
6 follows:

7 (b) A surety bond is not required for licensees approved by the
8 ~~department~~ division on April 10, 1995, that maintain continuous licensure.

9
10 SECTION 1919. Arkansas Code § 6-51-622(d), concerning noncommercial
11 driver training instruction, is amended to read as follows:

12 (d)(1) In consultation with the State Board of Private Career
13 Education, the ~~Department~~ Division of Higher Education may promulgate
14 reasonable rules to implement, enforce, and administer this section.

15 (2) The rules of the ~~department~~ division shall be issued in
16 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
17 seq.

18
19 SECTION 1920. Arkansas Code § 6-51-623 is amended to read as follows:
20 6-51-623. Defensive driving instruction.

21 A person shall not be required to obtain a license from the ~~Department~~
22 Division of Higher Education as a requirement for teaching or providing a
23 course in defensive driving under a court-mandated defensive driving class.

24
25 SECTION 1921. Arkansas Code § 6-51-701(a), concerning the
26 establishment of an Associate of Applied Science Degree in Nursing Program,
27 is amended to read as follows:

28 (a) The ~~Department of Career Education~~ Division of Higher Education is
29 hereby authorized to establish for the technical institutes or vocational-
30 technical schools of this state an Associate of Applied Science Degree in
31 Nursing Program.

32
33 SECTION 1922. Arkansas Code § 6-51-701(b)(1), concerning the
34 establishment of an Associate of Applied Science Degree in Nursing Program,
35 is amended to read as follows:

36 (b)(1) A nursing program shall be established by the ~~department~~

1 division. The nursing program shall be in accordance with the standards
2 established by the Arkansas State Board of Nursing.

3
4 SECTION 1923. Arkansas Code § 6-51-901(3), concerning the purpose of
5 the laws regarding postsecondary vocational and technical education, is
6 amended to read as follows:

7 (3) Augment the ~~State Board of Career Education~~ Arkansas Higher
8 Education Coordinating Board by increasing its membership that is
9 representative of business and industry, including the service-oriented
10 industries in Arkansas.

11
12 SECTION 1924. Arkansas Code § 6-51-902(a), concerning accountability
13 measures and performance indicators, is amended to read as follows:

14 (a)(1) All postsecondary vocational-technical schools, technical
15 institutes, and comprehensive lifelong learning centers within the State of
16 Arkansas shall present to the ~~State Board of Career Education~~ Arkansas Higher
17 Education Coordinating Board and the ~~Department of Career Education~~ Division
18 of Higher Education a report reflecting a satisfactory level of performance-
19 based system of accountability measures and performance indicators as defined
20 in this section.

21 (2) The report shall be filed with the ~~State Board of Career~~
22 ~~Education~~ Arkansas Higher Education Coordinating Board and the ~~department~~
23 division annually.

24
25 SECTION 1925. The introductory language of Arkansas Code § 6-51-
26 902(b), concerning accountability measures and performance indicators, is
27 amended to read as follows:

28 (b) In order to promote a coordinated system of postsecondary
29 vocational and technical education in Arkansas and to provide an effective
30 delivery system, the ~~State Board of Career Education~~ Arkansas Higher
31 Education Coordinating Board shall:

32
33 SECTION 1926. Arkansas Code § 6-51-902(c)-(f), concerning
34 accountability measures and performance indicators, are amended to read as
35 follows:

36 (c) With the exception of a special funding appropriation, all state

1 funds shall be requested by the ~~State Board of Career Education~~ Arkansas
2 Higher Education Coordinating Board for the technical institutes,
3 postsecondary vocational-technical schools, and comprehensive lifelong
4 learning centers based on a funding formula to be developed and approved by
5 the ~~State Board of Career Education~~ Arkansas Higher Education Coordinating
6 Board and shall be based upon the accountability measures and performance
7 indicators enumerated in this section.

8 (d) Upon the failure to find that satisfactory progress is being made
9 by the school, the ~~State Board of Career Education~~ Arkansas Higher Education
10 Coordinating Board shall dissolve the operation of the school or convert the
11 school to an adult education center, a secondary vocational center, or
12 another appropriate role and function.

13 (e) For purposes of standardized reporting and accountability only,
14 ~~the State Board of Career Education, after consultation with~~ the Arkansas
15 Higher Education Coordinating Board, shall develop for all postsecondary
16 vocational schools, technical institutes, and comprehensive lifelong learning
17 centers a reporting system for headcount enrollment and full-time-equivalency
18 enrollment which is consistent with policies followed by the Arkansas Higher
19 Education Coordinating Board.

20 (f) Riverside Vocational and Technical School shall be exempt from all
21 provisions of this subchapter except this section and shall remain a
22 postsecondary vocational-technical school as ~~presently~~ structured under the
23 ~~State Board of Career Education~~ Department of Corrections.

24
25 SECTION 1927. Arkansas Code § 6-51-904(a)(3), concerning the duties of
26 local boards for technical institutes, is amended to read as follows:

27 (3) To appoint from the candidates certified by the ~~Career~~
28 ~~Education and Workforce Development Board~~ Arkansas Higher Education
29 Coordinating Board and approved by the Governor, the president of the
30 technical institute or director of the comprehensive lifelong learning
31 center;

32
33 SECTION 1928. Arkansas Code § 6-51-904(a)(5) and (6), concerning the
34 duties of local boards for technical institutes, is amended to read as
35 follows:

36 (5) To determine, with the approval of the ~~Career Education and~~

1 ~~Workforce Development Board~~ Arkansas Higher Education Coordinating Board, the
2 educational program of the institution; and

3 (6) Other powers and duties as provided in this subchapter ~~or as~~
4 ~~delegated to it by the Career Education and Workforce Development Board~~
5 including without limitation those relating to accountability measures and
6 performance indicators under § 6-51-902.

7
8 SECTION 1929. Arkansas Code § 6-51-905(b), concerning technical
9 institutes, is amended to read as follows:

10 (b) Each technical institute shall operate within a service area
11 assigned by the ~~Career Education and Workforce Development Board~~ Arkansas
12 Higher Education Coordinating Board.

13
14 SECTION 1930. Arkansas Code § 6-51-905(e)(1)(B), concerning technical
15 institutes, is amended to read as follows:

16 (B) The plan shall be submitted annually to the local
17 board of directors and the ~~Career Education and Workforce Development Board~~
18 Arkansas Higher Education Coordinating Board for approval.

19
20 SECTION 1931. Arkansas Code § 6-51-906(b) and (c), concerning
21 comprehensive lifelong learning centers, are amended to read as follows:

22 (b) The ~~Career Education and Workforce Development Board~~ Arkansas
23 Higher Education Coordinating Board shall establish criteria and program
24 expansions which would require all remaining postsecondary vocational-
25 technical schools to become comprehensive lifelong learning centers.

26 (c)(1) When a postsecondary vocational-technical school meets the
27 criteria for becoming a comprehensive lifelong learning center as established
28 by the ~~Career Education and Workforce Development Board~~ Arkansas Higher
29 Education Coordinating Board, the school shall make application to the ~~board~~
30 Arkansas Higher Education Coordinating Board seeking that it be designated as
31 such.

32 (2) Each comprehensive lifelong learning center shall operate
33 within a service area assigned by the ~~Career Education and Workforce~~
34 ~~Development Board~~ Arkansas Higher Education Coordinating Board.

35 (3)(A) Each comprehensive lifelong learning center may operate
36 satellite campuses apart from the campus of the main center but within the

1 service area of the center.

2 (B) The establishment, locations, and number of satellite
3 campuses of a center must be approved by the ~~Career Education and Workforce~~
4 ~~Development Board~~ Arkansas Higher Education Coordinating Board.

5 (4) The board of directors of a comprehensive lifelong learning
6 center may contract with existing institutions of higher education for the
7 operation of any associate degree programs offered at the center, upon
8 approval by the ~~Career Education and Workforce Development Board and the~~
9 Arkansas Higher Education Coordinating Board.

10 (A) Any degree program at or above the associate degree
11 level offered at a comprehensive lifelong learning center must be approved by
12 the Arkansas Higher Education Coordinating Board and awarded by an Arkansas
13 institution of higher education accredited by an accrediting agency
14 recognized by the United States Department of Education.

15 (B) Any such degree program must be offered through the
16 center's ~~Center for Collegiate Instruction~~ center for collegiate
17 instruction.

18

19 SECTION 1932. Arkansas Code § 6-51-906(e)(3)(A), concerning
20 comprehensive lifelong learning centers, are amended to read as follows:

21 (A) The plan shall be submitted annually to the local
22 board of directors and the ~~Career Education and Workforce Development Board~~
23 Arkansas Higher Education Coordinating Board for approval.

24

25 SECTION 1933. Arkansas Code § 6-51-907(c)(2), concerning college
26 transfer courses and expanded associate degrees instruction, is amended to
27 read as follows:

28 (2) The guidelines for establishing the memorandum of
29 understanding shall be developed by the Arkansas Higher Education
30 Coordinating Board ~~in conjunction with the Career Education and Workforce~~
31 ~~Development Board~~.

32

33 SECTION 1934. Arkansas Code § 6-52-201(8), concerning apprenticeship
34 training programs and the definition of "vo-tech", is repealed.

35 ~~(8) "Vo Tech" means the Department of Career Education.~~

36

1 SECTION 1935. Arkansas Code § 6-53-206 is amended to read as follows:
2 6-53-206. Equipment pool.

3 The ~~Department~~ Division of Higher Education, in coordination with the
4 institutions, shall develop an effective means of pooling surplus equipment
5 for redistribution to other institutions. Such equipment pool arrangement may
6 include the crediting of equipment values to the institution for equipment
7 acquired from a source other than the state.

8
9 SECTION 1936. Arkansas Code § 6-53-301(f)(2), concerning the Arkansas
10 Technical and Community College System, is amended to read as follows:

11 (2) All records, personnel, property, unexpended balances of
12 appropriations, allocations, or other funds of the technical college shall be
13 transferred to the ~~Department~~ Division of Higher Education.

14
15 SECTION 1937. Arkansas Code § 6-53-302(i), concerning the local
16 administration of technical colleges, is amended to read as follows:

17 (i) The local board may contract with the ~~Department~~ Division of
18 Career and Technical Education, with a nonprofit organization, or with a
19 local school board within its service area to offer secondary level general
20 academic and vocational and technical courses and programs or adult literacy
21 courses, or both.

22
23 SECTION 1938. Arkansas Code § 6-53-306 is amended to read as follows:
24 6-53-306. Coordination with secondary vocational-technical education
25 and literacy programs.

26 Upon the approval of the Arkansas Higher Education Coordinating Board,
27 the local board may contract with the ~~Department~~ Division of Career and
28 Technical Education, a nonprofit organization, or a local school district
29 board of directors within its service area to offer secondary-level
30 vocational and technical courses and programs, adult literacy courses, and
31 industry training.

32
33 SECTION 1939. Arkansas Code § 6-53-402(g)(2), concerning the
34 conversion of two-year branches into technical colleges, is amended to read
35 as follows:

36 (2) All records, personnel, property, unexpended balances of

1 appropriations, allocations, or other funds of the technical college shall be
2 transferred to the ~~Department~~ Division of Higher Education.

3
4 SECTION 1940. Arkansas Code § 6-53-403(j)(2), concerning the
5 conversion of technical colleges and two-year branches into community
6 colleges, is amended to read as follows:

7 (2) All records, personnel, property, unexpended balances of
8 appropriations, allocations, or other funds of the community college shall be
9 transferred to the ~~Department~~ Division of Higher Education.

10
11 SECTION 1941. Arkansas Code § 6-53-404(h)(2), concerning technical
12 colleges and acceptance as branch campus of community college, is amended to
13 read as follows:

14 (2) All records, personnel, property, unexpended balances of
15 appropriations, allocations, or other funds of the satellite campus shall be
16 transferred to the ~~Department~~ Division of Higher Education.

17
18 SECTION 1942. Arkansas Code § 6-54-105, concerning accreditation and
19 abolishment of technical colleges, is amended to read as follows:

20 6-54-105. Accreditation – Abolishment.

21 If the technical college fails to achieve such accreditation within
22 eight (8) years following the date of transfer under § 6-54-104(d), the
23 technical college shall be abolished by the Arkansas Higher Education
24 Coordinating Board. All records, personnel, property, unexpended balances of
25 appropriations, allocations, or other funds of the technical college shall be
26 transferred to the ~~Department~~ Division of Higher Education.

27
28 SECTION 1943. Arkansas Code § 6-58-112 is amended to read as follows:

29 6-58-112. Conversion of positions and maximum salaries for Quapaw
30 Technical Institute.

31 The maximum salaries as authorized for the positions in the
32 appropriations act for Quapaw Technical Institute shall be converted to the
33 maximum salaries for the equivalent or similar positions as authorized in the
34 appropriations act for ~~Garland County Community College~~ National Park
35 College. The conversion of the maximum salaries shall be approved by the
36 ~~Department~~ Division of Higher Education for line item salaries or by the

1 Department of Finance and Administration for classified salaries and be
2 reported to the Legislative Council.

3

4 SECTION 1944. Arkansas Code § 6-59-101(1), concerning the definition
5 of "adult education program" under Arkansas Northeastern College, is amended
6 to read as follows:

7 (1) "Adult education program" means any classes designed to
8 assist students in preparing for a high school equivalency test and any class
9 designed to improve performance in general basic skills, parenting, English
10 proficiency, or other areas funded by the Adult Education Section of the
11 Department of ~~Career Education~~ Workforce Services; and

12

13 SECTION 1945. Arkansas Code § 6-60-203 is amended to read as follows:
14 6-60-203. Off-campus enrollments.

15 In order to provide needed off-campus services to Arkansas citizens who
16 do not happen to reside in the location of the main campus of a college or
17 university, the ~~Department~~ Division of Higher Education is instructed to
18 count and otherwise treat off-campus class enrollments consistent with the
19 enrollments for those same classes on the main campus of the institution.

20

21 SECTION 1946. Arkansas Code § 6-60-204(b), concerning the waiver of
22 general student fee charges for senior citizens, is amended to read as
23 follows:

24 (b) Fees will be waived only for courses organized to grant credit
25 and recognized by the ~~Department~~ Division of Higher Education for credit.

26

27 SECTION 1947. Arkansas Code § 6-60-208(d)(1), concerning the
28 requirements for academic clemency, is amended to read as follows:

29 (d)(1) Conditional admissions standards for nontraditional students
30 shall be based on the student's score on the American College Test (ACT)
31 composite or its equivalent as defined by the ~~Department~~ Division of Higher
32 Education, which shall issue guidelines to assist two-year and four-year
33 institutions of higher education in developing conditional admissions
34 standards.

35

36 SECTION 1948. Arkansas Code § 6-60-303(c) and (d), concerning the

1 Higher Education Tuition Adjustment Fund, are amended to read as follows:

2 (c) Tracking and Reporting.

3 (1) Furthermore, the ~~Department~~ Division of Higher Education
4 will require each institution to track and report the number of qualifying
5 students each year.

6 (2)(A) A list of students who benefit from the out-of-state
7 tuition waiver, including their social security numbers or their Arkansas
8 taxpaying parents' or guardians' names and social security numbers, will be
9 furnished by the ~~Department~~ Division of Higher Education to the Department of
10 Finance and Administration for confirmation that they or their parents are
11 employed in Arkansas at a wage in excess of five thousand five hundred
12 dollars (\$5,500) per annum.

13 (B) Documentation should be either an official W-2 form
14 from an Arkansas employer reflecting wages of at least five thousand five
15 hundred dollars (\$5,500) in the tax year prior to enrollment in college or
16 official employer verification of a current year salary minimum of at least
17 five thousand five hundred dollars (\$5,500), which the college will keep on
18 file for enrollment audit purposes.

19 (d) Appropriation Transfer Procedures.

20 (1) The Director of the ~~Department~~ Division of Higher Education
21 shall determine the difference between the amount of tuition revenue which
22 would have been generated by charging the Arkansas Higher Education
23 Coordinating Board-approved out-of-state tuition rate to the students as
24 compared to the approved in-state or out-of-district rate.

25 (2) Upon the determination, the director shall certify to the
26 Chief Fiscal Officer of the State and the Treasurer of State those amounts
27 that are required to be transferred from the ~~fund~~ Higher Education Tuition
28 Adjustment Fund.

29 (3) Upon receiving the certification, the Chief Fiscal Officer
30 of the State and the Treasurer of State shall cause to be transferred the
31 necessary funds and appropriation to the fund account of the institution
32 receiving certification from the director.

33 (4) In order to provide funding for the appropriation set out in
34 the line item entitled Tuition Adjustment in the biennial operations
35 appropriation act for the ~~Department~~ Division of Higher Education, the Chief
36 Fiscal Officer of the State shall transfer to the Higher Education Tuition

1 Adjustment Fund from the Higher Education Grants Fund Account three hundred
2 fifty thousand dollars (\$350,000) for each year of the biennium.

3
4 SECTION 1949. Arkansas Code § 6-60-703(a), concerning the
5 Comprehensive Arkansas Higher Education Annual Report, is amended to read as
6 follows:

7 (a)(1) The Comprehensive Arkansas Higher Education Annual Report shall
8 be submitted by the ~~Department~~ Division of Higher Education to the House
9 Committee on Education and the Senate Committee on Education, the President
10 Pro Tempore of the Senate, the Speaker of the House of Representatives, and
11 the Governor no later than December 15, 2011, and each year thereafter.

12 (2) The Comprehensive Arkansas Higher Education Annual Report
13 shall be posted on the ~~department~~ division website for public inspection no
14 later than January 1, 2012, and each year thereafter.

15
16 SECTION 1950. Arkansas Code § 6-60-703(d)(2), concerning the
17 Comprehensive Arkansas Higher Education Annual Report, is amended to read as
18 follows:

19 (2) Include a fiscal impact on administrative costs to the
20 ~~department~~ division.

21
22 SECTION 1951. Arkansas Code § 6-60-704 is amended to read as follows:
23 6-60-704. Information submitted to the ~~Department~~ Division of Higher
24 Education for inclusion in the report.

25 (a) All higher education reports submitted to the General Assembly or
26 other governmental bodies by individual colleges and universities, agencies,
27 boards, or commissions shall be submitted directly to the ~~Department~~ Division
28 of Higher Education no later than November 1, 2011, and each year thereafter
29 for inclusion in the Comprehensive Arkansas Higher Education Annual Report.

30 (b) If an institution of higher education fails to submit the required
31 reports to the ~~department~~ division by November 15, the institutions shall
32 appear before the House Committee on Education and the Senate Committee on
33 Education to explain why they failed to meet the submission deadline.

34 (c) Financial information provided by an institution of higher
35 education is subject to review by ~~the Division of~~ Arkansas Legislative Audit,
36 and any adjustments made to previously submitted financial information during

1 the course of a financial audit may be revised based upon recommendations
2 made by ~~the division~~ Arkansas Legislative Audit.

3
4 SECTION 1952. Arkansas Code § 6-60-705 is amended to read as follows:
5 6-60-705. Limitations.

6 (a) This subchapter does not limit the authority of the General
7 Assembly to request additional interim reports and supplemental information
8 from the ~~Department~~ Division of Higher Education, colleges and universities,
9 or other entities as needed.

10 (b) The Comprehensive Arkansas Higher Education Annual Report shall
11 take priority for the ~~department~~ division staff over a report requested under
12 subsection (a) of this section.

13
14 SECTION 1953. Arkansas Code § 6-60-806(b), concerning the rules,
15 promulgation, and authority of the Arkansas Higher Education Coordinating
16 Board, is amended to read as follows:

17 (b)(1) The ~~Department~~ Division of Higher Education may enforce
18 compliance with this subchapter and any rules promulgated under this
19 subchapter by the board.

20 (2) Under the rules of the board, the ~~department~~ division may
21 enter upon and inspect a campus at any reasonable time and in a reasonable
22 manner.

23
24 SECTION 1954. Arkansas Code § 6-60-901(1), concerning the definition
25 of "Arkansas Higher Education Information System" under the laws governing
26 the Arkansas Higher Education Information System, is amended to read as
27 follows:

28 (1) "Arkansas Higher Education Information System" means the
29 database maintained by the ~~Department~~ Division of Higher Education containing
30 student data files that the ~~department~~ division and institutions of higher
31 education in Arkansas are required to collect under §§ 6-85-214, 6-85-216,
32 and 6-85-217, other state law, and federal law; and

33
34 SECTION 1955. Arkansas Code § 6-60-902 is amended to read as follows:
35 6-60-902. Arkansas Higher Education Information System.

36 (a) The ~~Department~~ Division of Higher Education shall develop and

1 maintain the Arkansas Higher Education Information System.

2 (b)(1) ~~By December 31, 2011, the Department~~ The Division of Higher
3 Education shall provide the Bureau of Legislative Research with direct read-
4 and-report-only access to the data warehouse of the system concerning student
5 academic data, financial aid data, and related records.

6 (2)(A) In providing the bureau with the direct read-and-report-
7 only access required under subdivision (b)(1) of this section, the ~~Department~~
8 Division of Higher Education shall take reasonable precautions, including
9 electronic blocking or redacting, to prevent the disclosure of:

10 (i) Personally identifiable information of a
11 student, unless the parent or guardian of a minor student or a student who is
12 no longer a minor consents in writing to the disclosure of personally
13 identifiable information about that student; or

14 (ii) Information that would cause the ~~Department~~
15 Division of Higher Education to lose funding under 20 U.S.C. § 1232g, as it
16 existed on January 1, 2011.

17 (B) The ~~Department~~ Division of Higher Education shall:

18 (i) Work with the ~~Department of Education~~ Division
19 of Elementary and Secondary Education to develop the method of redaction to
20 be used with the system based on the standards used by the ~~Department of~~
21 Education Division of Elementary and Secondary Education; and

22 (ii) Disclose to the bureau and to the Legislative
23 Council the method of electronic blocking or redaction the ~~Department~~
24 Division of Higher Education will use under this subsection.

25 (3)(A) The ~~Department~~ Division of Higher Education shall make
26 its staff reasonably accessible for consultation with bureau staff in
27 developing and responding appropriately to bureau requests under this
28 section.

29 (B)(i) The bureau staff shall inform the ~~Department~~
30 Division of Higher Education of any warehouse data used in the preparation of
31 reports and provide the ~~Department~~ Division of Higher Education at least one
32 (1) working day to review any student-related warehouse data used in
33 preparation of reports before publicly releasing that student-related data
34 without personally identifiable information of a student.

35 (ii) This subdivision (b)(3)(B) does not waive the
36 confidentiality of a request of a member of the General Assembly under § 10-

1 2-129.

2 (c) The ~~Department~~ Division of Higher Education shall provide other
3 information and records requested by the bureau as soon as possible and in
4 whatever reasonable form requested.

5 (d) To the extent possible, the ~~Department~~ Division of Higher
6 Education, in cooperation with the ~~Department of Education~~ Division of
7 Elementary and Secondary Education, shall maintain the system in a manner
8 that ultimately will be compatible with implementing a P-20W student data
9 system for the state.

10

11 SECTION 1956. Arkansas Code § 6-60-903(a)(2), concerning compliance by
12 institutions of higher education regarding providing required data, is
13 amended to read as follows:

14 (2) Published from time to time by the ~~Department~~ Division of
15 Higher Education.

16

17 SECTION 1957. The introductory language of Arkansas Code § 6-60-
18 903(b), concerning compliance by institutions of higher education regarding
19 providing required data, is amended to read as follows:

20 (b) Within two (2) weeks of an institution of higher education's
21 failure to comply with the requirements for submission of data published by
22 the ~~department~~ division, the ~~department~~ division shall report to the
23 Legislative Council:

24

25 SECTION 1958. Arkansas Code § 6-61-105(b), concerning the requirement
26 of a course in American history or civil government, is amended to read as
27 follows:

28 (b) The ~~Department~~ Division of Higher Education shall see to the
29 strict carrying out of this section and may take such steps and measures as
30 may be necessary to effectuate its provisions.

31

32 SECTION 1959. Arkansas Code § 6-61-112(f)(2), concerning a student or
33 student's spouse being called into military service, is amended to read as
34 follows:

35 (2) The ~~Department~~ Division of Higher Education shall adopt the
36 necessary rules to ensure that state-supported scholarship, grant, and loan

1 programs comply with the provisions of this section.

2

3 SECTION 1960. Arkansas Code § 6-61-112(g), concerning a student or
4 student's spouse being called into military service, is amended to read as
5 follows:

6 (g)(1) For each fiscal year, each state-supported institution of
7 higher education in the state shall report the type and amount of
8 compensatory options provided under this section to the ~~department~~ division.

9 (2) The ~~department~~ division shall report to the House Committee
10 on Aging, Children and Youth, Legislative and Military Affairs and the Senate
11 Interim Committee on Children and Youth regarding the type and amount of
12 compensatory options provided under this section by each state-supported
13 institution of higher education no later than October 1 of each year
14 beginning in 2006 and each year thereafter.

15

16 SECTION 1961. The introductory language of Arkansas Code § 6-61-
17 124(b)(1), concerning the reporting of minority students who complete an
18 education program, is amended to read as follows:

19 (b)(1) All state-supported colleges and universities in Arkansas shall
20 report to the ~~Department of Education~~ Division of Elementary and Secondary
21 Education as soon as possible after each semester a list of each minority
22 student who:

23

24 SECTION 1962. Arkansas Code § 6-61-124(b)(1)(B), concerning the
25 reporting of minority students who complete an education program, is amended
26 to read as follows:

27 (B) Has signed a consent form authorizing the college or
28 university to report such information to the ~~department~~ division.

29

30 SECTION 1963. Arkansas Code § 6-61-124(c)(1), concerning the reporting
31 of minority students who complete an education program, is amended to read as
32 follows:

33 (c)(1) The ~~department~~ division shall maintain a database based upon
34 the reports provided by each college and university under subsection (b) of
35 this section.

36

1 SECTION 1964. Arkansas Code § 6-61-127(a)(1), concerning the creation
2 of the Arkansas Higher Education Performance Reporting System, is amended to
3 read as follows:

4 (a)(1) The ~~Department~~ Division of Higher Education, in consultation
5 with the institutions of higher education, shall develop an Arkansas Higher
6 Education Performance Reporting System.

7
8 SECTION 1965. Arkansas Code § 6-61-127(b) and (c), concerning the
9 creation of the Arkansas Higher Education Performance Reporting System, are
10 amended to read as follows:

11 (b) To the extent possible, the Arkansas Higher Education Performance
12 Reporting System will utilize information from an accrediting agency
13 recognized by the United States Department of Education's assessment outcomes
14 measures which are required for reaffirmation of accreditation, federal
15 Integrated Postsecondary Education Data System report data, and data
16 collected annually through the ~~Department~~ Division of Higher Education's
17 Statewide Information System.

18 (c) In developing the Arkansas Higher Education Performance Reporting
19 System, the ~~Department~~ Division of Higher Education will review and analyze
20 higher education performance reporting systems used in other states to
21 incorporate the best aspects of those plans.

22
23 SECTION 1966. Arkansas Code § 6-61-129(c)(2)(A), concerning the
24 creation of centers of excellence, is amended to read as follows:

25 (2)(A) Institutions of higher education may submit proposals to
26 the ~~Department~~ Division of Higher Education to become centers of excellence.

27
28 SECTION 1967. Arkansas Code § 6-61-129(d)(1), concerning the creation
29 of centers of excellence, is amended to read as follows:

30 (d)(1) Two (2) representatives of the ~~Department~~ Division of Higher
31 Education as designated by the Director of the ~~Department~~ Division of Higher
32 Education, and one (1) representative of the Arkansas Economic Development
33 Commission shall meet as needed to review applications jointly.

34
35 SECTION 1968. The introductory language of Arkansas Code § 6-61-
36 129(d)(2), concerning the creation of centers of excellence, is amended to

1 read as follows:

2 (2) The ~~Department~~ Division of Higher Education and the Arkansas
3 Economic Development Commission shall jointly make a recommendation to the
4 board regarding which institutions shall be acknowledged as centers of
5 excellence in a particular program or field of study based on factors,
6 including, but not limited to:

7

8 SECTION 1969. Arkansas Code § 6-61-131(b)(2)(A), concerning student
9 accounts receivable policies at two-year institutions of higher education, is
10 amended to read as follows:

11 (2)(A) Review its policies and practices to ensure its
12 compliance with census reporting guidelines promulgated by the ~~Department~~
13 Division of Higher Education.

14

15 SECTION 1970. Arkansas Code § 6-61-131(c)(3), concerning student
16 accounts receivable policies at two-year institutions of higher education, is
17 amended to read as follows:

18 (3) Filed with the ~~department~~ division no later than thirty (30)
19 days after the adoption of the policy.

20

21 SECTION 1971. Arkansas Code § 6-61-133(b), concerning professional
22 development for mandated reporters and licensed elementary and secondary
23 public school personnel, is amended to read as follows:

24 (b) For each degree program at an institution of higher education in
25 this state that is a prerequisite for licensure or certification in a
26 profession in which the professional is a child maltreatment mandated
27 reporter under the Child Maltreatment Act, § 12-18-101 et seq., the
28 ~~Department~~ Division of Higher Education shall coordinate with all the
29 institutions of higher education to ensure that before receiving a degree,
30 each graduate receives the professional development identified in subdivision
31 (d)(1) of this section.

32

33 SECTION 1972. Arkansas Code § 6-61-134(a)(3)(B), concerning a
34 mathematics requirement for an associate of applied science degree, is
35 amended to read as follows:

36 (B) ~~Department~~ Division of Higher Education.

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SECTION 1973. Arkansas Code § 6-61-137(d), concerning the presentation of expenditure data by state-supported institutions of higher education, is amended to read as follows:

(d)(1) The ~~Department~~ Division of Higher Education:

(A) May promulgate rules necessary to implement this section; and

(B) Shall develop internal guidelines necessary to implement this section.

(2) The ~~department~~ division shall consult with the state-supported institutions of higher education in developing rules and internal guidelines necessary to implement this section.

SECTION 1974. Arkansas Code § 6-61-203 is amended to read as follows:

6-61-203. Director and staff – Funds – Central office.

(a)(1)(A) The Arkansas Higher Education Coordinating Board shall appoint a director through a search and selection process that includes substantial input, review, and recommendation from the Presidents Council, subject to confirmation by the Governor.

(B) The director shall serve at the pleasure of the Governor.

(C) The director shall report to the Secretary of the Department of Education.

~~(2) The director shall serve as a member of the Governor's cabinet as the advocate for higher education.~~

~~(3)~~(A) The director and other staff employed by the board shall demonstrate competence in the field of institutional management or agency management, institutional finance, financial aid, or institutional research.

(B) The director shall exhibit advanced coordination and communication skills.

(b) The salary of the director and other members of the staff employed by the board or the Department of Education shall be comparable to the positions requiring similar qualifications and experience.

(c) The staff of the board shall be under the direction and supervision of the director.

(d) The board shall be provided sufficient operating funds to enable

1 it to carry out adequately the programs and functions assigned to the
2 ~~Department~~ Division of Higher Education.

3 (e) The central office of the ~~department~~ division shall be maintained
4 in Little Rock.

5 (f)(1) The board shall evaluate the director annually.

6 (2) The council shall provide an evaluation report of the
7 ~~department~~ division and the director to the board at least annually.

8
9 SECTION 1975. Arkansas Code § 6-61-204(d)(3), concerning advisory
10 committees and councils, is amended to read as follows:

11 (3) The ~~Department~~ Division of Higher Education employees shall
12 staff each committee.

13
14 SECTION 1976. Arkansas Code § 6-61-207(b) and (c), concerning role and
15 scope designations of the Arkansas Higher Education Coordinating Board, is
16 amended to read as follows:

17 (b) To assist the board and the ~~Department~~ Division of Higher
18 Education in their effort to promote a coordinated system of higher education
19 in Arkansas that addresses and responds to the changing economic needs of the
20 state and the new economy, the Arkansas Economic Development Commission shall
21 provide the ~~Department of Higher Education~~ division a list of the state's
22 overall and regional economic development goals within ten (10) days of
23 August 12, 2005, and by September 1 of each year thereafter.

24 (c)(1) The ~~Department of Higher Education~~ division may retain the
25 services of consultants or other experts as may be necessary to carry out the
26 review, and the ~~Department of Higher Education~~ division staff shall work
27 directly with the consultants to handle the logistics of needed discussion
28 groups, meeting minutes, and recommendation dissemination.

29 (2) The review process shall include an opportunity for
30 institutions to provide input, as well as a time for public and business
31 comment.

32 (3) Upon completion of the review, the ~~Department of Higher~~
33 ~~Education~~ division shall provide a report regarding its findings to the
34 board, the Governor, the cochairs of the Legislative Council, and the
35 Director of the Bureau of Legislative Research.

36 (4) The requirements for a review under this section shall be

1 contingent upon the appropriation and availability of funding for that
2 purpose.

3
4 SECTION 1977. Arkansas Code § 6-61-215 is amended to read as follows:

5 6-61-215. Student tuition and fees – Reporting.

6 Annually, by July 1, the ~~Department~~ Division of Higher Education shall
7 report the tuition and mandatory fees charged to students, including all
8 changes to tuition and mandatory fees, for each state-supported institution
9 of higher education to the House Committee on Education and the Senate
10 Committee on Education.

11
12 SECTION 1978. Arkansas Code § 6-61-220(b) and (c), concerning
13 retention and graduation rate information, are amended to read as follows:

14 (b)(1)(A) The ~~Department~~ Division of Higher Education, in consultation
15 with the colleges and universities, shall recommend a system for the
16 collection of information as to the retention and graduation rates of
17 students at state-supported colleges and universities to the board, the
18 Governor, the House Committee on Education, the Senate Committee on
19 Education, and the colleges and universities.

20 (B) In addition to retention and graduation rates for all
21 students, the report shall also include the retention and graduation rates of
22 all students who participate in intercollegiate athletics.

23 (2) Except as provided in subsection (c) of this section,
24 officials of state colleges and universities shall provide to the ~~department~~
25 division the information requested by the ~~department~~ division by December 1
26 of each year, beginning in 2000.

27 (3)(A) For the purpose of analysis by the Bureau of Legislative
28 Research to guide the General Assembly's evaluation of the need for
29 adjustments to eligibility and funding levels for state-supported student
30 financial assistance, the Office of Accountability of the ~~Department of~~
31 Education Division of Elementary and Secondary Education shall provide
32 annually to the bureau all individual student demographic and test result
33 data on ACT or ACT equivalent college placement exams.

34 (B) The office shall provide the data in a database or
35 spreadsheet format that omits personally identifiable information.

36 (c)(1) Subject to an adequate appropriation for the personnel and

1 equipment necessary to implement the system recommended under subdivision
2 (b)(1) of this section, the ~~department~~ division shall collect the information
3 described in subdivision (b)(1) of this section and report its findings to
4 the board, the Governor, the committees, and the colleges and universities by
5 May 1 of each year, beginning in 2000.

6 (2) Notwithstanding the provisions of subdivision (c)(1) of this
7 section, colleges and universities shall commence the collection of
8 information as to the retention and graduation rates of all students who
9 participate in intercollegiate athletics beginning in the fall semester of
10 1989 and shall report this information to the ~~department~~ division by December
11 1 of each year, beginning in 2000.

12
13 SECTION 1979. Arkansas Code § 6-61-221 is amended to read as follows:

14 6-61-221. Reporting of graduates requiring postsecondary remediation.

15 (a)(1) The ~~Department~~ Division of Higher Education shall collect
16 information necessary to prepare reports of college achievement of high
17 school graduates from each state-supported institution of higher education.

18 (2) The ~~Department~~ Division of Higher Education may contract
19 with appropriate organizations for the preparation of the reports.

20 (b) The ~~Department~~ Division of Higher Education and the Office of
21 Accountability of the ~~Department of Education~~ Division of Elementary and
22 Secondary Education shall work together to develop a compatible system of
23 reporting the number of:

24 (1) Students who required remediation during their first year of
25 enrollment in a state-supported institution of higher education if the
26 enrollment occurred within two (2) years of graduation from a secondary
27 school in this state;

28 (2) Students who required remediation and who graduated:

29 (A) With a 3.0 or higher grade point average on a 4.0
30 scale; and

31 (B) From a public high school after completing the:

32 (i) Program of the minimum core of high school
33 courses recommended for preparation for postsecondary education by the
34 Arkansas Higher Education Coordinating Board and the State Board of Education
35 pursuant to § 6-61-217 known as Smart Core; or

36 (ii) Non-Smart Core curriculum; and

1 (3) Attempts it takes a student to pass a postsecondary remedial
2 course, beginning in the 2011-2012 school year.

3 (c)(1) The compilation report generated by the ~~Department~~ Division of
4 Higher Education shall not include individual student information if the
5 information is reported in a manner that would identify a particular student.

6 (2) Any information gathered that identifies a particular
7 student shall be confidential.

8 (d)(1) The ~~Department~~ Division of Higher Education shall include the
9 reports developed under this section annually in the Comprehensive Arkansas
10 Higher Education Annual Report and provide an electronic copy to the:

11 (A) ~~Department of Education~~ Division of Elementary and
12 Secondary Education;

13 (B) ~~Department~~ Division of Career and Technical Education;

14 (C) Arkansas Higher Education Coordinating Board;

15 (D) Governor;

16 (E) House Committee on Education;

17 (F) Senate Committee on Education;

18 (G) State Board of Education; and

19 (H) School district administrators for each public high
20 school.

21 (2) The reports developed under this section shall be prepared
22 on or before October 1 each year and include the cost of remediation for each
23 state-supported institution of higher education, which shall be submitted to
24 the ~~Department~~ Division of Higher Education according to standards developed
25 by the ~~Department~~ Division of Higher Education and shall include for each
26 state-supported institution of higher education:

27 (A) The amount of institutional revenue spent on
28 remediation;

29 (B) The total general revenue subsidy spent on
30 remediation;

31 (C) The total institutional expenditure for remediation;
32 and

33 (D) The general revenue percentage of total expenditures
34 for remediation.

35 (3) The report required under this subsection shall be separate
36 from the uniform reporting standards report required under § 6-61-222.

1
2 SECTION 1980. Arkansas Code § 6-61-222(a)(3)(B), concerning uniform
3 reporting standards, is amended to read as follows:

4 (B) "Academic program" means any program of study leading
5 to a degree or certificate and any other program as defined by the ~~Department~~
6 Division of Higher Education;

7
8 SECTION 1981. Arkansas Code § 6-61-226(b)(1)(A), concerning guidelines
9 for course review, is amended to read as follows:

10 (b)(1)(A) The ~~Department~~ Division of Higher Education shall establish
11 peer review project teams composed of faculty members of Arkansas
12 universities and two-year colleges.

13
14 SECTION 1982. Arkansas Code § 6-61-226(b)(2)(A), concerning guidelines
15 for course review, is amended to read as follows:

16 (2)(A) The peer review project team for each discipline shall
17 review and recommend to the ~~department~~ division courses in the applicable
18 discipline to be recommended to the board for inclusion in the curriculum.

19
20 SECTION 1983. Arkansas Code § 6-61-227 is amended to read as follows:
21 6-61-227. Annual transfer credit report.

22 All public institutions of higher education and any participating
23 private institutions of higher education shall file a report annually with
24 the ~~Department~~ Division of Higher Education identifying the number of
25 students who requested transfer credit for a completed course in the state
26 minimum core curriculum but were not given credit.

27
28 SECTION 1984. The introductory language of Arkansas Code § 6-61-
29 231(d)(1)(C)(i), concerning statewide transfer agreements, is amended to read
30 as follows:

31 (C)(i) Policies and procedures for the ~~Department~~ Division
32 of Higher Education to collect data from public institutions of higher
33 education to ensure that:

34
35 SECTION 1985. Arkansas Code § 6-61-231(d)(1)(C)(ii), concerning
36 statewide transfer agreements, is amended to read as follows:

1 (ii) The ~~department~~ division shall determine
2 annually the data to be collected and shall establish by rule the procedures
3 for a public institution of higher education to provide the data requested.
4

5 SECTION 1986. Arkansas Code § 6-61-234(a)(1)(A), concerning the
6 productivity-based funding model for state-supported institutions of higher
7 education, is amended to read as follows:

8 (a)(1)(A) The Arkansas Higher Education Coordinating Board shall adopt
9 policies developed by the ~~Department~~ Division of Higher Education necessary
10 to implement a productivity-based funding model for state-supported
11 institutions of higher education.
12

13 SECTION 1987. Arkansas Code § 6-61-234(d)-(f), concerning the
14 productivity-based funding model for state-supported institutions of higher
15 education, are amended to read as follows:

16 (d) Funds unallocated to state-supported institutions of higher
17 education due to productivity declines shall be reserved by the ~~department~~
18 division to address statewide needs in higher education.

19 (e) The ~~department~~ division shall review the policies every five (5)
20 years to ensure the productivity-based funding model continues to respond to
21 the needs and priorities of the state.

22 (f) In any fiscal year for which the aggregate general revenue funding
23 forecast to be available for state-supported institutions of higher education
24 is greater than two percent (2%) less than the amount provided for the
25 immediate previous fiscal year, the ~~department~~ division shall not further
26 implement the productivity-based funding model until the following fiscal
27 year.
28

29 SECTION 1988. Arkansas Code § 6-61-301(a)(3), concerning incorporation
30 of laws from the Arkansas Higher Education Coordinating Board, is amended to
31 read as follows:

32 (3) Nonpublic, not-for-profit colleges and universities
33 currently incorporated, recognized by the Arkansas Higher Education
34 Coordinating Board as Arkansas independent institutions of higher education,
35 and operating under the applicable laws of this state shall not be required
36 to receive certification from the Arkansas Higher Education Coordinating

1 Board or to receive licensure from the ~~Department~~ Division of Higher
2 Education under § 6-51-601 et seq.

3
4 SECTION 1989. Arkansas Code § 6-61-302(b)(4), concerning incorporation
5 and certification advisory committee to the Arkansas Higher Education
6 Coordinating Board, is amended to read as follows:

7 (4) The Director of the ~~Department~~ Division of Career and
8 Technical Education or his or her designated representative; and

9
10 SECTION 1990. Arkansas Code § 6-61-304 is amended to read as follows:

11 6-61-304. Review of existing programs of higher education.

12 In order to provide for the orderly development, coordination,
13 financing, and expansion of the higher education program of this state, the
14 ~~Department~~ Division of Higher Education shall review the existing programs of
15 higher education in this state and assist in the orderly development and
16 expansion of higher education in this state in accordance with the procedures
17 outlined in §§ 6-61-101 – 6-61-103, 6-61-201 – 6-61-209, 6-61-211 [repealed],
18 6-61-212 – 6-61-216, 6-61-301 – 6-61-305, 6-61-306 [repealed], 6-61-401, 6-
19 61-402, 6-61-501 – 6-61-524, 6-61-601 – 6-61-603 and 6-61-604 – 6-61-612
20 [repealed].

21
22 SECTION 1991. Arkansas Code § 6-61-305 is amended to read as follows:

23 6-61-305. Encouragement of participation by private institutions.

24 The ~~Department~~ Division of Higher Education staff and the Arkansas
25 Higher Education Coordinating Board shall invite and encourage the
26 participation of private colleges and universities, proprietary schools, and
27 all other postsecondary institutions in Arkansas in planning for the programs
28 of education beyond high school.

29
30 SECTION 1992. Arkansas Code § 6-61-401(a), concerning the State
31 Student Incentive Grant Program, is amended to read as follows:

32 (a) The ~~Department~~ Division of Higher Education, in accordance with
33 policy established by the Arkansas Higher Education Coordinating Board, shall
34 administer the federal State Student Incentive Grant Program.

35
36 SECTION 1993. Arkansas Code § 6-61-402(c), concerning contracts and

1 cooperation with the Southern Regional Education Board, is amended to read as
2 follows:

3 (c) The ~~Department~~ Division of Higher Education staff, at the
4 direction of the Arkansas Higher Education Coordinating Board, is empowered
5 to conduct necessary administrative duties in connection with this program.
6

7 SECTION 1994. Arkansas Code § 6-61-504 is amended to read as follows:
8 6-61-504. Division of Community Junior Colleges created.

9 The Director of the ~~Department~~ Division of Higher Education shall
10 establish a separate Division of Community Junior Colleges within the
11 ~~Department~~ Division of Higher Education.
12

13 SECTION 1995. Arkansas Code § 6-61-505(b), concerning the State
14 Community College Board, is amended to read as follows:

15 (b) When the ~~board~~ Arkansas Higher Education Coordinating Board is
16 acting as the State Community College Board, the Director of the ~~Department~~
17 ~~of Education~~ Division of Elementary and Secondary Education shall be an ex
18 officio nonvoting member of that ~~board~~ Arkansas Higher Education Coordinating
19 Board.
20

21 SECTION 1996. Arkansas Code § 6-61-803 is amended to read as follows:

22 6-61-803. Arkansas Research Development Program created -
23 Administration.

24 There is created a program to be known as the Arkansas Research
25 Development Program which shall be administered by the Director of the
26 ~~Department~~ Division of Higher Education.
27

28 SECTION 1997. Arkansas Code § 6-61-808(b)(1), concerning applications
29 for funds for the Arkansas Research Development Program, is amended to read
30 as follows:

31 (b)(1) The Director of the ~~Department~~ Division of Higher Education
32 shall review the applications and shall approve applications in the amount he
33 or she determines appropriate, after seeking the advice of the Legislative
34 Council.
35

36 SECTION 1998. Arkansas Code § 6-61-901 is amended to read as follows:

1 6-61-901. Purpose.

2 In order to enhance the public's access to performance indicators and
3 to better measure the dividends paid on the increasing public investment in
4 Arkansas's institutions of higher education, the General Assembly finds that
5 a separate office of accountability should be established within the
6 ~~Department~~ Division of Higher Education.

7
8 SECTION 1999. Arkansas Code § 6-61-902 is amended to read as follows:

9 6-61-902. Office of Accountability within ~~Department~~ Division of
10 Higher Education.

11 (a) There is created the Office of Accountability within the
12 ~~Department~~ Division of Higher Education.

13 (b) The office is authorized and directed to collect and analyze
14 information that may be required to meet any state or federal requirement.

15 (c) Under the direction of the Director of the ~~Department~~ Division of
16 Higher Education, the staff of the office shall work cooperatively with and
17 provide any necessary assistance to the House Committee on Education and the
18 Senate Committee on Education.

19
20 SECTION 2000. Arkansas Code § 6-61-1303(4)(C), concerning the
21 definition of "full-time student" under the Productivity Enhancement for
22 Undergraduate Higher Education Act, is amended to read as follows:

23 (C) Is enrolled in at least twelve (12) semester hours or
24 some other reasonable academic equivalent as defined by the ~~Department~~
25 Division of Higher Education;

26
27 SECTION 2001. Arkansas Code § 6-61-1403(a), concerning additions or
28 alterations to the common course numbering system, is amended to read as
29 follows:

30 (a) The Director of the ~~Department~~ Division of Higher Education shall
31 recommend to the Arkansas Higher Education Coordinating Board any additions
32 or alterations to the common course numbering system.

33
34 SECTION 2002. Arkansas Code § 6-61-1406 is amended to read as follows:

35 6-61-1406. Courses review.

36 The ~~Department~~ Division of Higher Education shall:

1 (1) Regularly schedule reviews of courses that are listed in the
2 common course numbering system;

3 (2) Establish review procedures; and

4 (3) Adopt policies to carry out this section.
5

6 SECTION 2003. Arkansas Code § 6-61-1407 is amended to read as follows:
7 6-61-1407. Data collection.

8 (a) The ~~Department~~ Division of Higher Education shall adopt policies
9 for the collection of data to ensure that all institutions of higher
10 education that participate in the common course numbering system comply with
11 this subchapter.

12 (b) The ~~department~~ division shall determine the data to be collected
13 and annually notify each participating institution of higher education in a
14 timely manner.
15

16 SECTION 2004. Arkansas Code § 6-61-1602(b), concerning the creation
17 and purpose of the Institutional Energy Research Committee, is amended to
18 read as follows:

19 (b) The ~~Department~~ Division of Higher Education, in collaboration with
20 state-supported institutions of higher education that participate in energy
21 research activities, shall appoint at least one (1) member of the research
22 faculty at each state-supported institution of higher education that
23 participates in energy research activities to serve on the Institutional
24 Energy Research Committee.
25

26 SECTION 2005. Arkansas Code § 6-62-105(a)(1), concerning private
27 borrowing by institutions of higher education, is amended to read as follows:

28 (a)(1) Upon approval of the board of trustees of a state-supported
29 institution of higher education, the ~~Department~~ Division of Higher Education,
30 and the Chief Fiscal Officer of the State, a state-supported institution of
31 higher education may borrow funds determined by the board to be necessary to
32 continue the operation of the state-supported institution of higher education
33 from a private financial institution if the Revolving Loan Fund is
34 insufficient, as certified by the Chief Fiscal Officer of the State, for a
35 state-supported institution of higher education to participate in the fund.
36

1 SECTION 2006. The introductory language of Arkansas Code § 6-62-
2 105(c)(1), concerning private borrowing by institutions of higher education,
3 is amended to read as follows:

4 (c)(1) Notwithstanding subsections (a) and (b) of this section or §
5 19-4-705, the Chief Fiscal Officer of the State and the Director of the
6 ~~Department~~ Division of Higher Education may authorize a state-supported
7 institution of higher education to borrow funds from a private financial
8 institution provided that the board certifies that borrowing funds from a
9 private financial institution:

10
11 SECTION 2007. Arkansas Code § 6-62-726(a), concerning the rules and
12 regulations for the Department of Higher Education appropriation for college
13 savings bonds, is amended to read as follows:

14 (a) The ~~Department~~ Division of Higher Education or other agency to
15 which the appropriation for college savings bonds is provided shall adopt
16 rules and regulations for the allocation of the funds reappropriated for the
17 development of projects at state institutions of higher education and the
18 payment of project costs and expenses of the issuance of the bonds under this
19 subchapter in order to ensure that funds are allocated and expended in a
20 manner consistent with the applicable provisions of the Internal Revenue
21 Code, 26 U.S.C. § 1 et seq.

22
23 SECTION 2008. Arkansas Code § 6-62-803(a) and (b), concerning limits
24 on the funding amount to be budgeted of unrestricted educational and general
25 funds for intercollegiate athletic programs at state-supported institutions
26 of higher education, is amended to read as follows:

27 (a) For the certification required under § 6-62-805, the amount
28 allowed to be budgeted of unrestricted educational and general funds for
29 intercollegiate athletic programs at state-supported institutions of higher
30 education shall be limited to an amount established by the ~~Department~~
31 Division of Higher Education for the fiscal year 2012-2013 or an amount of
32 not more than two percent (2%) of the actual total unrestricted educational
33 and general revenues of the previous fiscal year at institutions of higher
34 education.

35 (b) The ~~department~~ division shall annually adjust the allowable
36 transfer based upon the Consumer Price Index.

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SECTION 2009. Arkansas Code § 6-63-103(c), concerning affirmative action programs, plans, and annual reports, is amended to read as follows:

(c) Copies of the five-year plan and annual reports summaries of each institution of higher education shall be included in the Comprehensive Arkansas Higher Education Annual Report, filed with the Governor, the ~~Department~~ Division of Higher Education, the president and board of trustees of the institution, the board of visitors of the institution, if applicable, and the House Committee on Education and the Senate Committee on Education.

SECTION 2010. Arkansas Code § 6-63-104(a), concerning faculty performance reviews, is amended to read as follows:

(a) The president and chancellor of each state-supported institution of higher education in Arkansas shall work with the campus faculties to develop a framework to review faculty performance, including post-tenure review. The framework should be used to develop processes and procedures at each institution to ensure a consistently high level of performance of the faculty at Arkansas' publicly supported institutions of higher education. The effects of the review process of faculty performance should include rewarding productive faculty, redirecting faculty efforts to improve or to increase productivity, and correcting instances of substandard performance. The framework developed by each institution shall be reported to the House Committee on Education and the Senate Committee on Education, the Joint Interim Oversight Committee on Education Reform, and the ~~Department~~ Division of Higher Education no later than December 1, 1998, and shall be implemented on the respective campuses no later than January 1, 2001.

SECTION 2011. Arkansas Code § 6-63-104(d), concerning faculty performance reviews, is amended to read as follows:

(d) The ~~department~~ division shall be responsible for monitoring the evaluation process and shall report its findings to the Arkansas Higher Education Coordinating Board and to the Legislative Council by August 1 of each year.

SECTION 2012. Arkansas Code § 6-63-305(a)(1)(A) and (B), concerning new or additional positions for institutions of higher education, are amended

1 to read as follows:

2 (A) A request for a specific nonclassified position,
3 title, and salary has been requested by the institution of higher education,
4 approved by the institution's board of trustees, recommended by the
5 ~~Department~~ Division of Higher Education, and reported to the Legislative
6 Council; or

7 (B) A request for a specific classified position will be
8 assigned only after a specific position, class title, and grade are requested
9 by the institution of higher education, approved by the institution's board,
10 recommended by the ~~department~~ division and reported to the Legislative
11 Council or, if the General Assembly is in session, the Joint Budget
12 Committee; and

13

14 SECTION 2013. Arkansas Code § 6-63-305(a)(3), concerning new or
15 additional positions for institutions of higher education, are amended to
16 read as follows:

17 (3) The source of funding for the additional positions
18 established under this subsection shall be reported to the ~~department~~
19 division and the Legislative Council by the institution at the time of the
20 request.

21

22 SECTION 2014. Arkansas Code § 6-63-307(a), concerning salary
23 restrictions and penalties of institutes of higher education, is amended to
24 read as follows:

25 (a) An employee drawing a salary or other form of compensation from an
26 institution of higher education shall not be paid an additional salary or
27 receive additional compensation other than reimbursement for actual expenses
28 from that institution or from any other agency or institution of higher
29 education except upon written certification to and approval by the Director
30 of the ~~Department~~ Division of Higher Education and by the head of each agency
31 or institution that the work performed by the employee for the other agency
32 or institution of higher education does not interfere with the proper and
33 required performance of the employee's primary duties and that the combined
34 salary payments from both agencies or institutions of higher education will
35 not exceed the larger maximum annual salary of the line item position
36 authorized for either agency from which the employee is to be paid.

1
2 SECTION 2015. Arkansas Code § 6-63-311(a)(3), concerning special
3 authorization and contracts for the National Center for Toxicological
4 Research, is amended to read as follows:

5 (3) The ~~Department~~ Division of Higher Education will be notified
6 of when and in what amount the special allowance will be paid prior to
7 activation of the special allowance.

8
9 SECTION 2016. Arkansas Code § 6-63-312 is amended to read as follows:

10 6-63-312. Contingency appropriations – Transfers and reports.

11 (a) Upon approval by the ~~Department~~ Division of Higher Education and
12 the Chief Fiscal Officer of the State, institutions of higher education may
13 transfer appropriation from the cash contingency appropriation to any other
14 appropriation made to the institution from cash funds and institutions may
15 transfer appropriation from the contingency appropriation made payable from
16 each institution's State Treasury Fund to the state operations appropriation
17 made payable from each institution's State Treasury Fund.

18 (b) The ~~department~~ division shall report monthly to the Legislative
19 Council these appropriation transfers, and the report shall include, by
20 institution, the amounts transferred, the reasons therefor, and the source of
21 the funds.

22
23 SECTION 2017. Arkansas Code § 6-63-316(b), concerning reporting of
24 salaries of administrators of state-supported institution of higher
25 education, is amended to read as follows:

26 (b)(1) A state-supported institution of higher education shall submit
27 a report listing each administrator at the state-supported institution of
28 higher education who earns a salary of one hundred thousand dollars
29 (\$100,000) or more to the Arkansas Higher Education Coordinating Board and
30 the ~~Department~~ Division of Higher Education by July 1 each year, beginning
31 July 1, 2010.

32 (2) The report shall be posted on the ~~department~~ division
33 website no later than July 15 each year, beginning July 15, 2010.

34
35 SECTION 2018. Arkansas Code § 6-65-104(b)(2), concerning rural school
36 teachers' training department, is amended to read as follows:

1 (2) These courses shall be outlined by a committee consisting of
2 the principal of each of the agricultural schools, the President of the
3 University of Central Arkansas, and the Director of the ~~Department of~~
4 ~~Education~~ Division of Elementary and Secondary Education and the Director of
5 the ~~Department~~ Division of Career and Technical Education.

6
7 SECTION 2019. Arkansas Code § 6-66-113(b), concerning the report by
8 the Board of Trustees of Henderson State University, is amended to read as
9 follows:

10 (b) The report shall be incorporated in the report of the Director of
11 the ~~Department of Education~~ Division of Elementary and Secondary Education
12 and shall set forth the financial and scholastic condition of Henderson State
13 University, furnish such suggestions as in the judgment of the board are
14 necessary for the improvement of the university, and make any further
15 recommendations that may to the board seem wise and expedient.

16
17 SECTION 2020. Arkansas Code § 6-67-114(b), concerning the biennial
18 report to the General Assembly of the Board of Trustees of the University of
19 Central Arkansas, is amended to read as follows:

20 (b) The report shall be incorporated in the report of the Director of
21 the ~~Department of Education~~ Division of Elementary and Secondary Education
22 and shall set forth the financial and scholastic condition of the University
23 of Central Arkansas, furnish such suggestions as in the board's judgment are
24 necessary for the improvement of the university, and shall make any further
25 recommendations that may seem wise and expedient to the board.

26
27 SECTION 2021. Arkansas Code § 6-68-102(4), concerning an electronic
28 version of printed instructional material, is amended to read as follows:

29 (4) Is signed by the coordinator of services for students with
30 disabilities at the institution of higher education and by an official
31 responsible for monitoring compliance with the Americans with Disabilities
32 Act of 1990, 42 U.S.C. § 12101 et seq. At the request of the institution of
33 higher education, the Division of State Services for the Blind of the
34 Department of Human Services or the ~~Department~~ Division of Career and
35 Technical Education may prepare and sign the certification.

36

1 SECTION 2022. Arkansas Code § 6-80-102(a), concerning compliance with
2 the Selective Service Act, is amended to read as follows:

3 (a) "Institution of higher education" has the meaning assigned by the
4 ~~Department~~ Division of Higher Education.

5
6 SECTION 2023. Arkansas Code § 6-80-102(d), concerning compliance with
7 the Selective Service Act, is amended to read as follows:

8 (d) The ~~department~~ division shall specify by rule the form of
9 statements of selective service status and the supporting documents to be
10 filed to be in compliance with this section. The ~~department~~ division shall
11 distribute to each institution of higher education a copy of all rules
12 adopted under this section.

13
14 SECTION 2024. Arkansas Code § 6-80-105(a)(1), concerning scholarship
15 stacking and student financial aid, is amended to read as follows:

16 (1) "Cost of attendance" means the recognized cost of attendance
17 of an institution of higher education calculated under rules established by
18 the ~~Department~~ Division of Higher Education;

19
20 SECTION 2025. Arkansas Code § 6-80-105(a)(4), concerning scholarship
21 stacking and student financial aid, is amended to read as follows:

22 (4) "State aid" means scholarships or grants awarded to a
23 student from public funds, including without limitation the Arkansas Academic
24 Challenge Scholarship under § 6-85-201 et seq., the ~~Department~~ Division of
25 Higher Education scholarship and grant programs, state general revenues,
26 tuition, and local tax revenue; and

27
28 SECTION 2026. Arkansas Code § 6-80-105(c), concerning scholarship
29 stacking and student financial aid, is amended to read as follows:

30 (c) A postsecondary institution shall report to the ~~department~~
31 division the total amount of federal aid, state aid, and other aid a student
32 receives if the student receives an award from a ~~department~~ division
33 scholarship or grant program, including the Arkansas Academic Challenge
34 Scholarship under § 6-85-201 et seq.

35
36 SECTION 2027. Arkansas Code § 6-80-105(d)(2), concerning scholarship

1 stacking and student financial aid, is amended to read as follows:

2 (2) The ~~department~~ division shall credit the excess state aid
3 funds to the appropriate ~~department~~ division fund or trust account.

4
5 SECTION 2028. Arkansas Code § 6-80-105(e)(1), concerning scholarship
6 stacking and student financial aid, is amended to read as follows:

7 (1) The ~~department~~ division if the ~~department~~ division awards
8 state aid to the student; and

9
10 SECTION 2029. Arkansas Code § 6-80-107 is amended to read as follows:

11 6-80-107. Transcripts.

12 (a)(1) As used in this section, "electronic transcript" means a
13 student transcript that is formatted and transmitted electronically in the
14 uniform method prescribed by the ~~Department~~ Division of Higher Education and
15 the ~~Department of Education~~ Division of Elementary and Secondary Education
16 for use by public schools and institutions of higher education in this state.

17 (2) An Arkansas public school shall use an electronic transcript
18 in lieu of a paper transcript to:

19 (A) Provide to the ~~Department~~ Division of Higher Education
20 as necessary to process state financial aid applications for students in
21 grades nine through twelve (9-12);

22 (B) Transmit a transcript between public high schools to
23 correctly enroll and place students in grades nine through twelve (9-12)
24 transferring between public high schools and school districts; and

25 (C) Transmit a transcript to the ~~Department of Education~~
26 Division of Elementary and Secondary Education.

27 (3) An institution of higher education in this state shall use
28 an electronic transcript in lieu of a paper transcript:

29 (A) As the only method of accepting a transcript from an
30 Arkansas public school;

31 (B) As the only method of accepting a transcript from or
32 sending a transcript to another institution of higher education in this
33 state;

34 (C) To provide to the ~~Department~~ Division of Higher
35 Education as necessary to process state financial aid applications for higher
36 education students; and

1 (D) To transmit a transcript to the ~~Department of~~
2 Education Division of Elementary and Secondary Education.

3 (b)(1) Except as provided under subdivision (b)(2) of this section, an
4 institution of higher education that does not comply with this section shall
5 not receive state financial aid on behalf of students.

6 (2) An institution of higher education with less than ten (10)
7 students who receive financial aid from a program administered by the
8 ~~Department~~ Division of Higher Education is exempt from the requirements under
9 subsection (a) of this section and the penalty under this subsection.

10 (c)(1) The ~~Department of Education~~ Division of Elementary and
11 Secondary Education shall prescribe a uniform method of formatting and
12 electronically transmitting transcripts, which shall be used by all
13 kindergarten through grade eight (K-8) public elementary or middle schools in
14 this state.

15 (2) A public elementary or middle school shall use an electronic
16 transcript in lieu of a paper transcript to transmit a transcript:

17 (A) Between public schools as necessary to correctly
18 enroll and place students transferring between schools and school districts;
19 and

20 (B) To the ~~Department of Education~~ Division of Elementary
21 and Secondary Education.

22
23 SECTION 2030. Arkansas Code § 6-81-603 is amended to read as follows:
24 6-81-603. Administration.

25 (a) The Teacher Opportunity Program shall be administered by the
26 ~~Department~~ Division of Higher Education, which shall have the authority to
27 establish necessary rules, regulations, procedures, and selection criteria
28 for the administration of the program and to designate necessary forms and
29 schedules.

30 (b) The ~~department~~ division may utilize an appropriate advisory
31 committee to assist it in its responsibilities in this program.

32
33 SECTION 2031. Arkansas Code § 6-81-604 is amended to read as follows:
34 6-81-604. Conditions.

35 The ~~Department~~ Division of Higher Education may make initial and
36 continuing grants to students under the following conditions:

1 (1) Grant recipients shall be bona fide residents of the State
2 of Arkansas, as defined by the ~~Department~~ Division of Higher Education;

3 (2) Grant recipients shall maintain current certification with
4 the ~~Department of Education~~ Division of Elementary and Secondary Education,
5 allowing them to be employed by the public schools in Arkansas;

6 (3) Grant recipients shall be currently employed as teachers or
7 administrators in Arkansas and declare an intention to continue that
8 employment in Arkansas;

9 (4) Grant recipients shall be enrolled in an eligible accredited
10 college or university in Arkansas;

11 (5) Grant recipients shall be enrolled in college-level courses
12 directly related to their employment as certified by the Commissioner of
13 Elementary and Secondary Education; and

14 (6) Grant recipients shall maintain a grade point average in
15 their college work of no less than 2.5 on a 4.0 scale or maintain an
16 appropriate equivalent as determined by the ~~Department~~ Division of Higher
17 Education.

18
19 SECTION 2032. Arkansas Code § 6-81-605(a)(2)(C), concerning the
20 priority of grants under the Teacher Opportunity Program, is amended to read
21 as follows:

22 (C) All other requirements established by the ~~Department~~
23 Division of Higher Education are met.

24
25 SECTION 2033. Arkansas Code § 6-81-605(b), concerning the priority of
26 grants under the Teacher Opportunity Program, is amended to read as follows:

27 (b)(1) The ~~Department~~ Division of Higher Education shall determine
28 priorities for awarding reimbursements if there are more applicants than
29 funds available.

30 (2) Priorities shall be determined in coordination with the
31 ~~Department of Education~~ Division of Elementary and Secondary Education and
32 shall be based on the needs of the state.

33
34 SECTION 2034. The introductory language of Arkansas Code § 6-81-
35 607(1), concerning the definition of "classroom teacher" under the Teacher
36 Opportunity Program, is amended to read as follows:

1 (1) "Classroom teacher" means an individual who is required to
2 hold a teaching license from the ~~Department of Education~~ Division of
3 Elementary and Secondary Education and who is:

4
5 SECTION 2035. Arkansas Code § 6-81-608(b), concerning the Dual
6 Licensure Incentive Program, is amended to read as follows:

7 (b) The program shall be administered by the ~~Department~~ Division of
8 Higher Education.

9
10 SECTION 2036. Arkansas Code § 6-81-609(a)(1)(A)(i), concerning dual
11 licensure funding, is amended to read as follows:

12 (i) Declared to be a shortage area by the ~~Department~~
13 of Education Division of Elementary and Secondary Education;

14
15 SECTION 2037. Arkansas Code § 6-81-609(a)(1)(B)(ii), concerning dual
16 licensure funding, is amended to read as follows:

17 (ii) The amount of the reimbursement and the number
18 of reimbursement recipients selected by the ~~Department~~ Division of Higher
19 Education is contingent on the appropriation and availability of funding for
20 such a purpose.

21
22 SECTION 2038. Arkansas Code § 6-81-609(a)(2)(B)(ii)(a), concerning
23 dual licensure funding, is amended to read as follows:

24 (a) Has been identified as a subject area with
25 a shortage of classroom teachers as declared by the ~~Department of Education~~
26 Division of Elementary and Secondary Education; or

27
28 SECTION 2039. Arkansas Code § 6-81-1101(a) and (b), concerning tuition
29 assistance for certain professional schools, is amended to read as follows:

30 (a) The ~~Department~~ Division of Higher Education shall institute a
31 program of making grants for the benefit of Arkansas residents to assist in
32 paying tuition for attending certain accredited schools of dentistry,
33 optometry, veterinary medicine, podiatry, or chiropractic located outside the
34 State of Arkansas but within the United States.

35 (b) In addition to the Southern Regional Education Compact program for
36 which the Arkansas Higher Education Coordinating Board serves as agent for

1 the state and for which the ~~department~~ division serves as disbursing agent
2 pursuant to §§ 6-4-104 – 6-4-107, the Arkansas Higher Education Coordinating
3 Board is authorized to enter into direct contracts with selected accredited
4 schools of dentistry, optometry, veterinary medicine, podiatry, chiropractic,
5 or osteopathy which do not participate in the program if the Arkansas Higher
6 Education Coordinating Board determines that the needs of the state are not
7 being met by institutions participating in the program.

8
9 SECTION 2040. Arkansas Code § 6-81-1101(c)(2)(E), concerning tuition
10 assistance for certain professional schools, is amended to read as follows:

11 (E) Is a party to a currently effective written agreement
12 between the participating institution and the ~~department~~ division or the
13 ~~Board of Control for Southern Regional Education~~ Southern Regional Education
14 Board; and

15
16 SECTION 2041. Arkansas Code § 6-81-1101(c)(3)(C), concerning tuition
17 assistance for certain professional schools, is amended to read as follows:

18 (C) Has been certified under § 6-4-106 by the ~~department~~
19 division as qualified to participate in the grant program authorized by this
20 section and consistent with § 6-4-106.

21
22 SECTION 2042. Arkansas Code § 6-81-1101(d)(2), concerning tuition
23 assistance for certain professional schools, is amended to read as follows:

24 (2) For participating schools which charge the same amount of
25 annual tuition for in-state and out-of-state students and such annual tuition
26 is extraordinary as determined by the ~~department~~ division, the amount shall
27 not be less than five thousand dollars (\$5,000) per student.

28
29 SECTION 2043. Arkansas Code § 6-81-1101(e), concerning tuition
30 assistance for certain professional schools, is amended to read as follows:

31 (e)(1) The program shall be administered by the ~~department~~ division.

32 (2) The grants shall be made upon such terms and conditions as
33 are prescribed by the ~~department~~ division.

34 (3) The ~~department~~ division shall promulgate such rules and
35 regulations as are necessary to implement the provisions of this section.

36

1 SECTION 2044. Arkansas Code § 6-81-1101(f), concerning tuition
2 assistance for certain professional schools, is amended to read as follows:

3 (f)(1) The ~~department~~ division will allocate, based upon funds
4 appropriated, the number of eligible grant recipients to receive funds at
5 each participating institution for each applicable academic period.

6 (2) Each participating institution will select eligible grant
7 recipients for each applicable academic period. In the event that the number
8 of eligible students accepted for enrollment at such participating
9 institution exceeds the number of eligible grant recipients for whom funds
10 have been allocated by the ~~department~~ division from funds appropriated, such
11 participating institution shall have sole discretion in selecting the
12 eligible students to designate as eligible grant recipients.

13 (3) The ~~department~~ division shall make grants according to the
14 allocations made by the ~~department~~ division and selections made by the
15 participating institutions. The ~~department~~ division shall have no obligation
16 to make any grants except to the extent that funds have been appropriated and
17 funded for the program.

18
19 SECTION 2045. Arkansas Code § 6-81-1103(a), concerning repayment of
20 out-of-state tuition paid by the State of Arkansas, is amended to read as
21 follows:

22 (a) The ~~Department~~ Division of Higher Education may provide loans from
23 the Budget Stabilization Trust Fund in excess of the ~~Board of Control for~~
24 ~~Southern Regional Education~~ Southern Regional Education Board grant funds to
25 dental students enrolled in professional programs outside the state for whom
26 any part of the out-of-state tuition is paid by the State of Arkansas if the
27 tuition paid to the out-of-state institution exceeds the board-contracted
28 rate.

29
30 SECTION 2046. Arkansas Code § 6-81-1103(e)(3), concerning repayment of
31 out-of-state tuition paid by the State of Arkansas, is amended to read as
32 follows:

33 (3) Extraordinary circumstances as determined by the ~~department~~
34 division.

35
36 SECTION 2047. Arkansas Code § 6-81-1103(f), concerning repayment of

1 out-of-state tuition paid by the State of Arkansas, is amended to read as
2 follows:

3 (f) The loans shall be made at a rate of interest determined by the
4 ~~department~~ division but not to exceed four percent (4%).

5
6 SECTION 2048. Arkansas Code § 6-81-1105(a)(6)(D), concerning
7 veterinary medicine loans, is amended to read as follows:

8 (D) Has been certified under § 6-4-106 by the ~~Department~~
9 Division of Higher Education as qualified to participate in the loan
10 repayment program authorized by this section and consistent with § 6-4-106.

11
12 SECTION 2049. The introductory language of Arkansas Code § 6-81-
13 1105(b), concerning veterinary medicine loans, is amended to read as follows:

14 (b) The ~~department~~ division shall institute a loan repayment program
15 to:

16
17 SECTION 2050. Arkansas Code § 6-81-1105(c)(1), concerning veterinary
18 medicine loans, is amended to read as follows:

19 (c)(1) The ~~department~~ division shall administer the program.

20
21 SECTION 2051. Arkansas Code § 6-81-1105(c)(2)(A), concerning
22 veterinary medicine loans, is amended to read as follows:

23 (2)(A) The ~~department~~ division shall adopt rules to implement
24 this section and address the terms and conditions of loan repayments made
25 under this section.

26
27 SECTION 2052. The introductory language of Arkansas Code § 6-81-
28 1105(d), concerning veterinary medicine loans, is amended to read as follows:

29 (d) The ~~department~~ division shall:

30
31 SECTION 5053. Arkansas Code § 6-81-1105(d)(3), concerning veterinary
32 medicine loans, is amended to read as follows:

33 (3)(A) Distribute loan repayments according to the allocations
34 made by the ~~department~~ division.

35 (B) The ~~department~~ division shall not be obligated to make
36 a loan repayment unless funds are appropriated.

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SECTION 2054. The introductory language of Arkansas Code § 6-81-1106(b), concerning student loan repayment, is amended to read as follows:

(b) The ~~Department~~ Division of Higher Education shall repay federal student loans yearly for a maximum of five (5) consecutive years if the recipient:

SECTION 2055. Arkansas Code § 6-81-1106(d)(3), concerning student loan repayment, is amended to read as follows:

(3) Other period of postponement agreed to by the ~~department~~ division.

SECTION 2056. Arkansas Code § 6-81-1106(e), concerning student loan repayment, is amended to read as follows:

(e) The ~~department~~ division shall adopt rules to administer this section.

SECTION 2057. Arkansas Code § 6-81-1301(a), concerning the administration and purpose of the University Assisted Teacher Recruitment and Retention Grant Program, is amended to read as follows:

(a) There is established the University Assisted Teacher Recruitment and Retention Grant Program within the ~~Department~~ Division of Higher Education.

SECTION 2058. Arkansas Code § 6-81-1301(c), concerning the administration and purpose of the University Assisted Teacher Recruitment and Retention Grant Program, is amended to read as follows:

(c)(1) Any institution of higher education in the State of Arkansas which offers a Master of Education degree may apply to the ~~Department~~ Division of Higher Education for participation in the program.

(2) Under the program, participating institutions shall collaborate with the ~~Department of Education~~ Division of Elementary and Secondary Education to identify, recruit, and place teacher education graduates, from both within the state and out of state, in school districts situated within those areas of the state where there exists a critical shortage of teachers, as designated by the ~~Department of Education~~ Division

1 of Elementary and Secondary Education.

2
3 SECTION 2059. Arkansas Code § 6-81-1301(d)(1), concerning the
4 administration and purpose of the University Assisted Teacher Recruitment and
5 Retention Grant Program, is amended to read as follows:

6 (d)(1) The ~~Department~~ Division of Higher Education shall provide funds
7 to participating institutions of higher learning for the purpose of awarding
8 scholarships to qualified persons pursuing a Master of Education degree at
9 participating institutions while rendering service to the state as a licensed
10 teacher in a school district in a geographical area of the state where there
11 exists a critical shortage of teachers, as approved by the State Board of
12 Education.

13
14 SECTION 2060. Arkansas Code § 6-81-1301(h)(2), concerning the
15 administration and purpose of the University Assisted Teacher Recruitment and
16 Retention Grant Program, is amended to read as follows:

17 (2) The ~~Department~~ Division of Higher Education shall promulgate
18 rules and regulations necessary for the administration of the relocation
19 expense reimbursement component of the program.

20
21 SECTION 2061. Arkansas Code § 6-81-1301(l)(1), concerning the
22 administration and purpose of the University Assisted Teacher Recruitment and
23 Retention Grant Program, is amended to read as follows:

24 (1)(1)(A) Students receiving an award from the program shall execute a
25 note made payable to the ~~Department~~ Division of Higher Education for an
26 amount equal to the award each semester that shall bear interest at the rate
27 of ten percent (10%) per year beginning September 1 after completion of the
28 program or immediately after termination of the student's participation in
29 the program, whichever is earlier.

30 (B) Students in the program who receive reimbursement for
31 moving expenses under subsection (h) of this section shall execute a note
32 made payable to the ~~Department of Education~~ Division of Elementary and
33 Secondary Education for an amount equal to the reimbursement that shall bear
34 interest at the rate of ten percent (10%) per year.

35
36 SECTION 2062. Arkansas Code § 6-81-1301(m)-(p), concerning the

1 administration and purpose of the University Assisted Teacher Recruitment and
2 Retention Grant Program, are amended to read as follows:

3 (m) All funds received by the ~~Department of Education~~ Division of
4 Elementary and Secondary Education from the repayment of scholarship awards
5 and relocation expenses by program participants shall be deposited in the
6 fund that provides funding for the program.

7 (n) The ~~Department~~ Division of Higher Education shall promulgate rules
8 and regulations necessary for the proper administration of the program.

9 (o) The requirements of this section are contingent on the funding
10 available for the program.

11 (p) The ~~Department~~ Division of Higher Education is authorized to
12 determine the necessary procedures for the awarding of grants should the
13 number of eligible applicants and recipients exceed the funds available.
14

15 SECTION 2063. Arkansas Code § 6-81-1602 is amended to read as follows:
16 6-81-1602. Definitions.

17 As used in this subchapter:

18 (1) "Approved institution" means a state-supported institution
19 of higher education, a nursing school, or a private nonprofit institution of
20 higher education that:

21 (A) Maintains its Elementary headquarters in the state;

22 (B) Is eligible to receive Title IV federal student aid
23 program funds; and

24 (C) Is approved by the ~~Department~~ Division of Higher
25 Education as eligible to participate in the State Teacher Education Program;

26 (2) "Eligible student" means a student who:

27 (A) Meets the criteria set out in this subchapter; and

28 (B) Is found to be eligible by rules promulgated by the
29 ~~Department~~ Division of Higher Education; and

30 (3) "Teacher education program" means a program administered by
31 the ~~Department~~ Division of Higher Education that provides loan repayments to
32 a licensed teacher who teaches in a subject area or a geographic area with
33 teacher shortage as determined by the ~~Department~~ Division of Higher Education
34 in consultation with the ~~Department of Education~~ Division of Elementary and
35 Secondary Education.
36

1 SECTION 2064. Arkansas Code § 6-81-1604 is amended to read as follows:
2 6-81-1604. Administration of the program.

3 (a) The State Teacher Education Program shall be administered by the
4 ~~Department~~ Division of Higher Education.

5 (b) The ~~department~~ division shall adopt standards for awarding the
6 loan repayments to a public school teacher with an Arkansas teacher's license
7 teaching in a:

8 (1) Subject area with a teacher shortage; or

9 (2) Geographic area with teacher shortage.

10 (c) The requirements of this subchapter are contingent on the funding
11 available for the program.

12 (d) The ~~department~~ division may determine the necessary procedures for
13 awarding the loan repayments if the number of eligible applicants and
14 recipients exceeds available funding.

15
16 SECTION 2065. Arkansas Code § 6-81-1605 is amended to read as follows:
17 6-81-1605. Eligibility.

18 To be eligible for the State Teacher Education Program, an applicant
19 shall:

20 (1) Teach full-time at a public school district in a subject
21 area or geographic area with a teacher shortage, as identified by the
22 ~~Department~~ Division of Higher Education in consultation with the ~~Department~~
23 ~~of Education~~ Division of Elementary and Secondary Education;

24 (2) Hold a valid Arkansas teacher's license; and

25 (3) Meet additional continuing eligibility criteria established
26 by the ~~Department~~ Division of Higher Education.

27
28 SECTION 2066. Arkansas Code § 6-81-1606 is amended to read as follows:
29 6-81-1606. Duration - Amount.

30 (a) The State Teacher Education Program shall be used to provide a
31 loan repayment for federal student loans in the amount of:

32 (1) Three thousand dollars (\$3,000) per year for a maximum of
33 three (3) years for a licensed teacher who graduated from a teacher education
34 program after April 2004 and teaches in a public school in this state:

35 (A) In a subject area designated by the ~~Department~~
36 Division of Higher Education in consultation with the ~~Department of Education~~

1 Division of Elementary and Secondary Education as having a critical shortage
2 of teachers; or

3 (B) Located in a geographical area of the state designated
4 by the ~~Department~~ Division of Higher Education in consultation with the
5 ~~Department of Education~~ Division of Elementary and Secondary Education as
6 having a critical shortage of teachers; and

7 (2) An additional one thousand dollars (\$1,000) per year for a
8 maximum of three (3) years for a licensed teacher who is a minority and who
9 graduated from a teacher education program after April 2004 and teaches in a
10 public school in this state.

11 (b) The ~~Department~~ Division of Higher Education may spend no more than
12 fifty thousand dollars (\$50,000) annually for costs associated with the
13 administration of the program.

14 (c) The ~~Department~~ Division of Higher Education shall promulgate rules
15 necessary for the implementation of this subchapter.

16

17 SECTION 2067. Arkansas Code § 6-81-1701 is amended to read as follows:

18 6-81-1701. Establishment – Administration.

19 There is established a Teacher Candidate Loan Forgiveness Program to be
20 administered by the ~~Department~~ Division of Higher Education.

21

22 SECTION 2068. Arkansas Code § 6-81-1702(a)(4) and (5), concerning
23 eligibility for loan amounts and terms for financing the cost of attendance
24 at an institution of higher education, is amended to read as follows:

25 (4) Is majoring in a degree program that will lead to the
26 individual's becoming eligible for licensure as a teacher in a high-needs
27 subject area as identified by the ~~Department of Education~~ Division of
28 Elementary and Secondary Education; and

29 (5) Has entered into a written agreement with the ~~Department~~
30 Division of Higher Education to:

31 (A) Teach for five (5) consecutive years in a school or
32 school district located in a geographic area identified by the ~~Department of~~
33 ~~Education~~ Division of Elementary and Secondary Education under § 6-15-403
34 [repealed] as a critical teacher shortage area beginning immediately upon
35 obtaining licensure; and

36 (B) Repay each loan at an interest rate and on a schedule

1 as determined by the ~~Department~~ Division of Higher Education if the
2 individual fails to meet the requirements under this subchapter.

3
4 SECTION 2069. Arkansas Code § 6-81-1702(b), concerning eligibility for
5 loan amounts and terms for financing the cost of attendance at an institution
6 of higher education, is amended to read as follows:

7 (b) If the amount of funds available for the Teacher Candidate Loan
8 Forgiveness Program is insufficient to award loans to all qualified
9 applicants under this subchapter, the ~~Department~~ Division of Higher Education
10 shall award the loans on a competitive basis as determined by the ~~Department~~
11 Division of Higher Education.

12
13 SECTION 2070. Arkansas Code § 6-81-1703(b)(2)(B), concerning loan
14 amounts, terms, and renewals, is amended to read as follows:

15 (B) Meets the satisfactory academic progress standards
16 required to receive other financial aid at the institution of higher
17 education where the individual is enrolled, as determined by the ~~Department~~
18 Division of Higher Education in conjunction with the institution of higher
19 education.

20
21 SECTION 2071. Arkansas Code § 6-81-1704 is amended to read as follows:

22 6-81-1704. Loan contract – Forgiveness.

23 (a) An individual who receives a loan under this subchapter shall
24 execute a written loan contract with the ~~Department~~ Division of Higher
25 Education for the repayment of the loan as provided in this subchapter.

26 (b) A loan contract executed under subsection (a) of this section
27 shall provide that the total amount of the loans awarded to the individual
28 under this subchapter, plus accrued interest, shall be forgiven at the rate
29 of twenty percent (20%) per year for each year that the individual teaches in
30 a school or school district located in a geographic area identified by the
31 ~~Department of Education~~ Division of Elementary and Secondary Education under
32 § 6-15-403 [repealed] as a critical teacher shortage area.

33
34 SECTION 2072. Arkansas Code § 6-81-1705 is amended to read as follows:

35 6-81-1705. Repayment – Deferment.

36 (a) An individual who receives a loan under this subchapter shall

1 immediately begin repayment of each loan the individual received, together
2 with interest as determined by the ~~Department~~ Division of Higher Education,
3 if the individual:

4 (1) Ceases to be enrolled in good standing at an institution of
5 higher education in this state, unless the individual has graduated and
6 received a degree;

7 (2) Does not obtain licensure as a teacher from the State Board
8 of Education within one (1) year of graduating and receiving a degree;

9 (3) Does not begin work as a licensed teacher in the academic
10 year immediately following becoming licensed;

11 (4) Does not teach in a school or school district located in a
12 geographic area identified by the ~~Department of Education~~ Division of
13 Elementary and Secondary Education under § 6-15-403 [repealed] as a critical
14 teacher shortage area in the individual's first year as a licensed teacher;
15 or

16 (5)(A) Does not teach in a school or school district located in
17 a geographic area identified by the ~~Department of Education~~ Division of
18 Elementary and Secondary Education under § 6-15-403 [repealed] as a critical
19 teacher shortage area for five (5) consecutive years beginning immediately
20 upon obtaining licensure.

21 (B) The total amount of the loans awarded to an individual
22 that are subject to repayment under subdivision (a)(5)(A) of this section
23 shall be reduced on a pro rata basis as required under § 6-81-1704(b).

24 (b)(1) The ~~Department~~ Division of Higher Education may defer the
25 requirements under subdivisions (a)(3)-(5) of this section if the ~~Department~~
26 Division of Higher Education, in consultation with the ~~Department of~~
27 Education Division of Elementary and Secondary Education, determines that
28 there was no employment position available that would reasonably enable the
29 individual to meet the requirements.

30 (2) After the period of deferral, the individual shall begin or
31 resume teaching in a school or school district located in a geographic area
32 identified by the ~~Department of Education~~ Division of Elementary and
33 Secondary Education under § 6-15-403 [repealed] as a critical teacher
34 shortage area or become subject to repayment under subsection (a) of this
35 section.

36

1 SECTION 2073. Arkansas Code § 6-81-1706 is amended to read as follows:
2 6-81-1706. Rules.

3 The ~~Department~~ Division of Higher Education shall promulgate rules to
4 implement this subchapter.

5
6 SECTION 2074. Arkansas Code § 6-82-102(a), concerning the annual
7 review of minority scholarship or grant programs, is amended to read as
8 follows:

9 (a) The Arkansas Higher Education Coordinating Board shall review
10 annually all minority scholarship or grant programs administered by the
11 ~~Department~~ Division of Higher Education in order to ensure that the programs
12 are in compliance with federal regulations.

13
14 SECTION 2075. The introductory language of Arkansas Code § 6-82-105,
15 concerning the administration and authority of the Department of Higher
16 Education, is amended to read as follows:

17 The ~~Department~~ Division of Higher Education shall administer all state
18 college financial assistance programs provided by legislation or by law and
19 in so doing shall have the following authority and responsibility with
20 respect to state college financial assistance programs provided by
21 legislation or by law to:

22
23 SECTION 2076. Arkansas Code § 6-82-105(1), concerning the
24 administration and authority of the Department of Higher Education, is
25 amended to read as follows:

26 (1) Adopt such rules as the ~~department~~ division shall deem
27 necessary or appropriate to carry out the purposes of this subchapter;

28
29 SECTION 2077. Arkansas Code § 6-82-105(6), concerning the
30 administration and authority of the Department of Higher Education, is
31 amended to read as follows:

32 (6) Require applicants to file additional information with the
33 ~~department~~ division as necessary and appropriate to carry out the purposes of
34 this subchapter and to prevent fraud, misrepresentation, or misleading
35 representation by applicants;

36

1 SECTION 2078. Arkansas Code § 6-82-105(11), concerning the
2 administration and authority of the Department of Higher Education, is
3 amended to read as follows:

4 (11) Employ or engage such professional, administrative,
5 clerical, and other employees as may be necessary to assist the ~~department~~
6 division in the performance of its duties and responsibilities; and
7

8 SECTION 2079. Arkansas Code § 6-82-106 is amended to read as follows:
9 6-82-106. Scholarship awards.

10 (a) The ~~Department~~ Division of Higher Education is authorized to award
11 scholarships to students who are accepted to a Washington, D.C. public policy
12 academic internship, as determined by the ~~department~~ division, if funding is
13 appropriated and available.

14 (b) The ~~department~~ division may promulgate rules to administer this
15 section.
16

17 SECTION 2080. Arkansas Code § 6-82-302(1), concerning the definition
18 of "academic ability" under the laws governing the Arkansas Governor's
19 Scholars Program, is amended to read as follows:

20 (1) "Academic ability" means the intellectual standing of a
21 student. In determining superior academic ability, the ~~Department~~ Division of
22 Higher Education shall examine the student's high school records, competitive
23 examination scores, and demonstrated leadership capabilities;
24

25 SECTION 2081. Arkansas Code § 6-82-302(4), concerning the definition
26 of "department" under the laws governing the Arkansas Governor's Scholars
27 Program, is repealed.

28 ~~(4) "Department" means the Department of Higher Education;~~
29

30 SECTION 2082. The introductory language of Arkansas Code § 6-82-
31 302(5), concerning the definition of "eligible student" under the laws
32 governing the Arkansas Governor's Scholars Program, is amended to read as
33 follows:

34 (5) "Eligible student" means a resident of the State of Arkansas
35 as defined by the ~~Department~~ Division of Higher Education who:
36

1 SECTION 2083. Arkansas Code § 6-82-302(6)(B), concerning the
2 definition of "extraordinary academic ability" under the laws governing the
3 Arkansas Governor's Scholars Program, is amended to read as follows:

4 (B) For students graduating after December 31, 2001, the
5 American College Test scores and Scholastic Aptitude Test scores shall be
6 earned by December 31 prior to the application deadline in order for the
7 scores to be considered by the ~~department~~ Division of Higher Education for a
8 scholarship award;

9
10 SECTION 2084. Arkansas Code § 6-82-302(7), concerning the definition
11 of "full-time student" under the laws governing the Arkansas Governor's
12 Scholars Program, is amended to read as follows:

13 (7) "Full-time student" means a resident of Arkansas who is in
14 attendance at an approved private or public institution and who is enrolled
15 in at least twelve (12) credit hours the first semester and fifteen (15)
16 hours thereafter, or other reasonable academic equivalent as defined by the
17 ~~department~~ Division of Higher Education;

18
19 SECTION 2085. The introductory language of Arkansas Code § 6-82-304,
20 concerning the administration and authority of the Department of Higher
21 Education, is amended to read as follows:

22 The ~~Department~~ Division of Higher Education shall administer the
23 Arkansas Governor's Scholars Program and shall have the following authority
24 and responsibility with respect to the program to:

25
26 SECTION 2086. Arkansas Code § 6-82-304(1), concerning the
27 administration and authority of the Department of Higher Education, is
28 amended to read as follows:

29 (1) Prepare application forms or such other forms as the
30 ~~department~~ division shall deem necessary to properly administer and carry out
31 the purposes of this subchapter;

32
33 SECTION 2087. Arkansas Code § 6-82-304(8)(D)(iii), concerning the
34 administration and authority of the Department of Higher Education, is
35 amended to read as follows:

36 (iii) The ~~department~~ division shall release a

1 scholarship hold if the ~~department~~ division determines that the student did
2 not complete the commitment under the written agreement.

3
4 SECTION 2088. Arkansas Code § 6-82-306(b)(2)(A), concerning
5 eligibility to receive scholarships from the Arkansas Governor's Scholars
6 Program, is amended to read as follows:

7 (2)(A) Is a bona fide resident of the state, as defined by the
8 ~~Department~~ Division of Higher Education.

9
10 SECTION 2089. Arkansas Code § 6-82-306(b)(5)(A), concerning
11 eligibility to receive scholarships from the Arkansas Governor's Scholars
12 Program, is amended to read as follows:

13 (5)(A) Demonstrates proficiency in the application of knowledge
14 and skills in reading and writing literacy and mathematics by passing the
15 end-of-course examination as may be developed by the ~~Department of Education~~
16 Division of Elementary and Secondary Education and as may be designated by
17 the ~~Department~~ Division of Higher Education for this purpose.

18
19 SECTION 2090. The introductory language of Arkansas Code § 6-82-
20 306(b)(6)(A), concerning eligibility to receive scholarships from the
21 Arkansas Governor's Scholars Program, is amended to read as follows:

22 (6)(A) Satisfies the qualifications of superior academic ability
23 as established by the ~~Department~~ Division of Higher Education with criteria
24 consisting of value points for academic achievement and leadership, including
25 without limitation:

26
27 SECTION 2091. Arkansas Code § 6-82-306(b)(6)(B), concerning
28 eligibility to receive scholarships from the Arkansas Governor's Scholars
29 Program, is amended to read as follows:

30 (B)(i) The ~~Department~~ Division of Higher Education may
31 alter the weight assigned to the individual criterion to more appropriately
32 meet the needs of the state as determined by the Arkansas Higher Education
33 Coordinating Board.

34 (ii) The ~~Department~~ Division of Higher Education
35 shall ensure that the weight assigned to each individual criterion under this
36 subdivision (b)(6)(B) does not place a home-schooled, public school, or

1 private school student at a disadvantage.

2 (iii)(a) After determining qualified recipients
3 based on the qualifications under subdivision (b)(6)(A) of this section, the
4 ~~Department~~ Division of Higher Education shall ensure that at least one (1)
5 recipient is selected from each of the seventy-five (75) counties in
6 Arkansas.

7 (b) If any of the seventy-five (75) counties
8 is not represented, the ~~Department~~ Division of Higher Education shall select
9 a student from each nonrepresented county with the highest qualifications
10 under subdivision (b)(6)(A) of this section who was not initially qualified.
11

12 SECTION 2092. Arkansas Code § 6-82-307 is amended to read as follows:

13 6-82-307. Applicant's responsibilities.

14 Each applicant shall, in accordance with the provisions of this
15 subchapter and the rules and regulations of the ~~Department~~ Division of Higher
16 Education:

17 (1) Complete and file with the ~~department~~ division the
18 appropriate application for the Arkansas Governor's Scholars Program and such
19 other information and data as may be requested by the ~~department~~ division in
20 determining the eligibility of the student;

21 (2) Furnish to the ~~department~~ division information regarding any
22 change in status of the student or any other information that might have a
23 direct bearing on the eligibility of the applicant; and

24 (3) Provide the ~~department~~ division with verification that the
25 scholarship was used in accordance with the purposes of this subchapter.
26

27 SECTION 2093. Arkansas Code § 6-82-308(b)(2) and (3), concerning the
28 number of scholarships available for the Arkansas Governor's Scholars
29 Program, are amended to read as follows:

30 (2) Should a shortfall of funds be projected, the ~~Department~~
31 Division of Higher Education shall promulgate rules for the priority funding
32 of these scholarships and submit these proposed rules to the Arkansas Higher
33 Education Coordinating Board for a public hearing and to the Administrative
34 Rules and Regulations Subcommittee of the Legislative Council for review
35 before implementing the rules.

36 (3) If there are more eligible applicants than available

1 scholarships, the ~~department~~ division may determine a procedure for awarding
2 additional scholarships while not exceeding available funds.

3
4 SECTION 2094. Arkansas Code § 6-82-309 is amended to read as follows:
5 6-82-309. Award of scholarship.

6 An Arkansas Governor's Scholarship or Arkansas Governor's Distinguished
7 Scholarship will be awarded to a student in a manner to be determined by the
8 ~~Department~~ Division of Higher Education.

9
10 SECTION 2095. Arkansas Code § 6-82-311(c)(4), concerning the term,
11 renewal, and allocation of scholarships for the Arkansas Governor's Scholars
12 Program, is amended to read as follows:

13 (4) The recipient has met any other continuing eligibility
14 criteria established by the ~~Department~~ Division of Higher Education.

15
16 SECTION 2096. Arkansas Code § 6-82-314 is amended to read as follows:
17 6-82-314. Withdrawal from school – Refund.

18 If a recipient of an Arkansas Governor's Scholarship or Arkansas
19 Governor's Distinguished Scholarship withdraws from an approved private or
20 public institution and under the policy of that institution the student is
21 entitled to a refund of any tuition, fees, or other charges, the institution
22 shall pay the refund to which the student may be entitled to the ~~Department~~
23 Division of Higher Education to the extent of any amount the ~~department~~
24 division has paid to the student for that academic year.

25
26 SECTION 2097. Arkansas Code § 6-82-401(1)-(4), concerning the
27 definitions under the Arkansas High Technology Scholarship Program, are
28 amended to read as follows:

29 (1) "Academic ability" means the intellectual standing of a
30 student. In determining superior academic ability, the ~~Department~~ Division of
31 Career and Technical Education shall examine the student's high school
32 records, competitive examination scores, and demonstrated leadership
33 capabilities;

34 (2) "Approved high technology program" means a course of
35 instruction in a highly technical field offered by any postsecondary
36 educational institution which is approved by the ~~department~~ division;

1 (3) "Approved institution" means all postsecondary educational
2 institutions offering high technology programs which are approved by the
3 ~~department~~ division;

4 ~~(4) "Department" means the Department of Career Education;~~
5

6 SECTION 2098. The introductory language of Arkansas Code § 6-82-403,
7 concerning the administration and authority of the Department of Career
8 Education, is amended to read as follows:

9 The ~~Department~~ Division of Career and Technical Education shall
10 administer this subchapter and shall have the following authority and
11 responsibility with respect thereto:
12

13 SECTION 2099. Arkansas Code § 6-82-403(1), concerning the
14 administration and authority of the Department of Career Education, is
15 amended to read as follows:

16 (1) To prepare application forms or such other forms as the
17 ~~department~~ division shall deem necessary to properly administer and carry out
18 the purposes of this subchapter;
19

20 SECTION 2100. Arkansas Code § 6-82-404(b)(4), concerning eligibility
21 and preferences regarding the rewarding of scholarships, is amended to read
22 as follows:

23 (4) Satisfactorily meets the qualifications of superior academic
24 ability as established by the ~~Department~~ Division of Career and Technical
25 Education.
26

27 SECTION 2101. Arkansas Code § 6-82-405 is amended to read as follows:

28 6-82-405. Applicant's responsibilities.

29 Each applicant shall, in accordance with the provisions of this
30 subchapter and the rules and regulations of the ~~Department~~ Division of Career
31 and Technical Education:

32 (1) Complete and file with the ~~department~~ division the
33 appropriate application for the scholarship and such other information and
34 data as may be requested by the ~~department~~ division in determining the
35 eligibility of the student;

36 (2) Furnish to the ~~department~~ division information regarding any

1 change in status of the student or any other information that might have a
2 direct bearing on the eligibility of the applicant; and

3 (3) Provide the ~~department~~ division with verification that the
4 scholarship was used in accordance with the purposes of this subchapter.

5
6 SECTION 2102. Arkansas Code § 6-82-406 is amended to read as follows:

7 6-82-406. Award of scholarship.

8 A scholarship shall be awarded to the student in a manner to be
9 determined by the ~~Department~~ Division of Career and Technical Education.

10
11 SECTION 2103. Arkansas Code § 6-82-409(c), concerning the term,
12 allocation, and renewal of scholarships, is amended to read as follows:

13 (c) A scholarship shall be awarded for one (1) academic year and
14 renewed annually for up to three (3) additional academic years if the student
15 maintains not less than a 3.0 grade point average on a 4.0 scholastic grading
16 scale, or an equivalent academic standing, and meets other criteria as
17 established by the ~~Department~~ Division of Career and Technical Education.

18
19 SECTION 2104. Arkansas Code § 6-82-410 is amended to read as follows:

20 6-82-410. Withdrawal from school – Refund.

21 If a recipient of a scholarship withdraws from an approved institution
22 and under the policy of that institution the student is entitled to a refund
23 of any tuition, fees, or other charges, the institution shall pay the refund
24 to which the student may be entitled to the ~~Department~~ Division of Career and
25 Technical Education, to the extent of any amount the ~~department~~ division has
26 paid to the student for that academic year.

27
28 SECTION 2105. Arkansas Code § 6-82-506 is amended to read as follows:

29 6-82-506. Written application for benefits.

30 Any person claiming benefits awarded by the Arkansas State Claims
31 Commission under the provisions of this subchapter shall make written
32 application with the ~~Department~~ Division of Higher Education on forms
33 provided by the ~~department~~ division.

34
35 SECTION 2106. Arkansas Code § 6-82-507(2), concerning the renewal of a
36 scholarship, is amended to read as follows:

1 (2) Meet any other continuing eligibility criteria established
2 by the ~~Department~~ Division of Higher Education.

3
4 SECTION 2107. Arkansas Code § 6-82-601(b), concerning the tuition
5 waiver for dependents of certain veterans, is amended to read as follows:

6 (b) Each applicant must apply for the Survivors' and Dependents'
7 Educational Assistance program (DEA) Chapter 35 of Title 38 of the United
8 States Code with the United States Department of Veterans Affairs. The
9 applicant must provide the ~~Arkansas Department~~ Division of Higher Education
10 with proof of acceptance of DEA or non-eligibility into DEA upon application
11 to this program.

12
13 SECTION 2108. Arkansas Code § 6-82-601(f), concerning the tuition
14 waiver for dependents of certain veterans, is amended to read as follows:

15 (f) An eligible recipient shall receive a scholarship for one (1)
16 academic year, renewable for up to three (3) additional academic years if the
17 recipient meets continuing eligibility criteria established by the ~~Department~~
18 Division of Higher Education.

19
20 SECTION 2109. Arkansas Code § 6-82-601(h), concerning tuition waiver
21 for dependents of certain veterans, is amended to read as follows:

22 (h) In compliance with the ~~Department~~ Division of Higher Education's
23 scholarship stacking policy, no student's total financial aid package, which
24 can include multiple scholarships, can exceed the recognized cost of
25 attendance at a higher education institution.

26
27 SECTION 2110. Arkansas Code § 6-82-1503(e)(3), concerning the
28 eligibility for scholarships and the amount, is amended to read as follows:

29 (3) The maximum number of awards that may be made to students
30 attending school on a part-time basis and the maximum time period for part-
31 time students to complete the number of academic hours necessary to obtain a
32 baccalaureate degree in education shall be established by rules and
33 regulations jointly promulgated by the university and the ~~Department~~ Division
34 of Higher Education.

35
36 SECTION 2111. Arkansas Code § 6-82-1504(a), concerning the service

1 requirement for scholarship recipients, is amended to read as follows:

2 (a) Except in those cases where employment positions may not be
3 available upon completion of licensure requirements, at the beginning of the
4 first school year in which a recipient of a Critical Needs Minority Teacher
5 Scholarship is eligible for employment as a licensed teacher, that person
6 shall begin to render service as a licensed teacher in a public school
7 district in a geographical area of the state where there is a critical
8 shortage of teachers or in the Delta, as designated by the ~~Department of~~
9 ~~Education~~ Division of Elementary and Secondary Education.

10

11 SECTION 2112. Arkansas Code § 6-82-1504(c), concerning the service
12 requirement for scholarship recipients, is amended to read as follows:

13 (c) Students receiving a scholarship shall execute a note made payable
14 to the university for an amount equal to the scholarship award each semester
15 that shall bear interest at a rate to be determined by the ~~Department~~
16 Division of Higher Education beginning September 1 after completion of the
17 program or immediately after termination of the scholarship loan, whichever
18 is earlier.

19

20 SECTION 2113. Arkansas Code § 6-82-1505(a), concerning rules,
21 regulations, administration, and reports regarding the Critical Needs
22 Minority Teacher Scholarship Program, is amended to read as follows:

23 (a) The University of Arkansas at Pine Bluff and the ~~Department~~
24 Division of Higher Education shall jointly promulgate rules and regulations
25 necessary for the proper administration of the Critical Needs Minority
26 Teacher Scholarship Program.

27

28 SECTION 2114. The introductory language of Arkansas Code § 6-82-
29 1801(1), concerning the definition of "approved institution of higher
30 education" under the laws governing the Arkansas Future Grant Program, is
31 amended to read as follows:

32 (1) "Approved institution of higher education" means an
33 institution of higher education approved by the ~~Department~~ Division of Higher
34 Education to participate in the Arkansas Future Grant Program and that is:

35

36 SECTION 2115. Arkansas Code § 6-82-1801(2)(E), concerning the

1 definition of "approved state-supported school of nursing" under the laws
2 governing the Arkansas Future Grant Program, is amended to read as follows:

3 (E) Has been approved by the ~~Department~~ Division of Higher
4 Education as eligible to participate in the Arkansas Future Grant Program;
5 and

6
7 SECTION 2116. Arkansas Code § 6-82-1801(5)(A), concerning the
8 definition of "state-supported student financial assistance" under the laws
9 governing the Arkansas Future Grant Program, is amended to read as follows:

10 (A) The ~~Department~~ Division of Higher Education; or

11
12 SECTION 2117. Arkansas Code § 6-82-1802(a), concerning the creation of
13 and eligibility for the Arkansas Future Grant Program, is amended to read as
14 follows:

15 (a) There is established the Arkansas Future Grant Program within the
16 ~~Department~~ Division of Higher Education.

17
18 SECTION 2118. Arkansas Code § 6-82-1802(b)(1)(A)(ii), concerning the
19 creation of and eligibility for the Arkansas Future Grant Program, is amended
20 to read as follows:

21 (ii) Received a high school equivalency diploma
22 approved by the ~~Department of Career Education~~ Adult Education Section of the
23 Division of Workforce Services; or

24
25 SECTION 2119. Arkansas Code § 6-82-1803(b) and (c), concerning the
26 Arkansas Future Grant, are amended to read as follows:

27 (b) The ~~Department~~ Division of Higher Education shall disburse the
28 grant directly to the approved institution of higher education.

29 (c) The ~~department~~ division shall award grants under this subchapter
30 in the order in which the ~~department~~ division receives applications from
31 eligible students.

32
33 SECTION 2120. Arkansas Code § 6-82-1804 is amended to read as follows:
34 6-82-1804. Recipients.

35 (a) A student who receives an Arkansas Future Grant shall enter into a
36 written agreement with the ~~Department~~ Division of Higher Education to:

1 (1)(A) Receive monthly mentoring from a mentor from an
2 organization determined by the ~~Department~~ Division of Higher Education.

3 (B) A mentor under subdivision (a)(1)(A) of this section
4 shall:

5 (i) Receive annual mentoring training:

6 (a) Developed by the ~~Department~~ Division of
7 Higher Education; and

8 (b) Provided by a local volunteer group
9 approved by the ~~Department~~ Division of Higher Education; and

10 (ii) Certify to the ~~Department~~ Division of Higher
11 Education that at least one (1) time each calendar month the mentor has
12 provided mentoring services by telephone, email, or in person to each student
13 he or she is mentoring;

14 (2)(A) Complete at least fifteen (15) hours of community service
15 each semester the student receives a grant.

16 (B)(i) A student may select a community service project
17 that meets requirements developed by the ~~Department~~ Division of Higher
18 Education.

19 (ii) An approved institution of higher education may
20 provide community services opportunities designed to benefit the approved
21 institution of higher education community or the broader local community.

22 (C) A student shall certify his or her community service
23 to the approved institution of higher education by the last regular day of
24 the semester the student received the grant; and

25 (3)(A) Reside in this state for three (3) consecutive years and
26 be employed beginning within six (6) months after receiving an associate
27 degree or a certification.

28 (B) The ~~Department~~ Division of Higher Education may defer
29 the requirement under subdivision (a)(3)(A) of this section if:

30 (i) The ~~Department~~ Division of Higher Education, in
31 consultation with the ~~Department~~ Division of Workforce Services, determines
32 that there was no employment position available that would reasonably enable
33 the student to meet this requirement; or

34 (ii) Special circumstances as determined by the
35 ~~Department~~ Division of Higher Education exist.

36 (C) After the period of deferral, the student shall begin

1 or resume working in this state or become subject to repayment under
2 subsection (b) of this section.

3 (b) The written agreement under subsection (a) of this section shall
4 provide that the grant converts into a loan and the student shall repay the
5 grant amount:

6 (1) On a pro rata basis at an interest rate and on a schedule as
7 determined by the ~~Department~~ Division of Higher Education for each year the
8 student does not reside in this state for three (3) consecutive years and
9 become employed beginning within six (6) months after receiving an associate
10 degree or a certification; or

11 (2) In its entirety at an interest rate and on a schedule as
12 determined by the ~~Department~~ Division of Higher Education if the recipient
13 does not comply with the written agreement under subsection (a) of this
14 section.

15

16 SECTION 2121. Arkansas Code § 6-82-1805 is amended to read as follows:
17 6-82-1805. Rules.

18 The ~~Department~~ Division of Higher Education shall promulgate rules to
19 implement this subchapter.

20

21 SECTION 2122. Arkansas Code § 6-82-1901(b)(3), concerning scholarships
22 for teachers in high-needs subject areas, is amended to read as follows:

23 (3)(A) Enter into a written agreement with the ~~Department~~
24 Division of Higher Education to teach at a public school for a minimum of
25 five (5) consecutive years in a high-needs subject area as determined under
26 subdivision (b)(3)(B) of this section.

27 (B) A recipient shall be deemed to be teaching in a high-
28 needs subject area if the subject area in which the recipient is employed to
29 teach was determined by the ~~Department of Education~~ Division of Elementary
30 and Secondary Education to be a high-needs subject area in:

31 (i) The year the recipient entered into the
32 agreement with the ~~Department~~ Division of Higher Education under subdivision
33 (b)(3)(A) of this section;

34 (ii) Any year the recipient received a scholarship
35 award under this subchapter; or

36 (iii) The year the recipient is licensed as a

1 teacher by the State Board of Education.

2
3 SECTION 2123. The introductory language of Arkansas Code § 6-82-
4 1901(c), concerning scholarships for teachers in high-needs subject areas, is
5 amended to read as follows:

6 (c) The written agreement entered into by the recipient and the
7 ~~Department~~ Division of Higher Education under subdivision (b)(3) of this
8 section shall provide that the recipient:

9
10 SECTION 2124. Arkansas Code § 6-82-1901(c)(2)(A), concerning
11 scholarships for teachers in high-needs subject areas, is amended to read as
12 follows:

13 (A) On a pro rata basis at an interest rate and on a
14 schedule as determined by the ~~Department~~ Division of Higher Education for
15 each year the recipient does not teach at a public school in a high-needs
16 subject area if the recipient does not teach at a public school in a high-
17 needs subject area as determined by the ~~Department of Education~~ Division of
18 Elementary and Secondary Education for five (5) consecutive years after first
19 becoming employed as a licensed teacher; or

20
21 SECTION 2125. The introductory language of Arkansas Code § 6-82-
22 1901(c)(2)(B), concerning scholarships for teachers in high-needs subject
23 areas, is amended to read as follows:

24 (B) In its entirety at an interest rate and on a schedule
25 as determined by the ~~Department~~ Division of Higher Education if the recipient
26 does not:

27
28 SECTION 2126. Arkansas Code § 6-82-1901(c)(2)(B)(ii) and (iii),
29 concerning scholarships for teachers in high-needs subject areas, are amended
30 to read as follows:

31 (ii) Begin work at a public school as a licensed
32 teacher in a high-needs subject area, as determined by the ~~Department of~~
33 Education Division of Elementary and Secondary Education, in the academic
34 year immediately following becoming licensed; or

35 (iii) Teach at a public school in a high-needs
36 subject area as determined by the ~~Department of Education~~ Division of

1 Elementary and Secondary Education in the recipient's first year as a
2 licensed teacher.

3
4 SECTION 2127. Arkansas Code § 6-82-1901(d)(1), concerning scholarships
5 for teachers in high-needs subject areas, is amended to read as follows:

6 (d)(1) The ~~Department~~ Division of Higher Education may defer the
7 requirements under subdivisions (c)(2)(B)(ii) and (iii) of this section if
8 the ~~Department~~ Division of Higher Education, in consultation with the
9 ~~Department of Education~~ Division of Elementary and Secondary Education,
10 determines that there was no employment position available at a public school
11 that would reasonably enable the recipient to meet the requirements.

12
13 SECTION 2128. Arkansas Code § 6-82-1901(e)-(h), concerning
14 scholarships for teachers in high-needs subject areas, are amended to read as
15 follows:

16 (e)(1) By March 1 of each year, the ~~Department of Education~~ Division
17 of Elementary and Secondary Education shall provide to the ~~Department~~
18 Division of Higher Education a maximum on the number of scholarships that
19 should be awarded under this subchapter for the following academic year based
20 on the projected needs of licensed teachers at public schools in high-needs
21 subject areas.

22 (2) The ~~Department~~ Division of Higher Education shall not award
23 for an academic year more scholarships than the maximum number provided by
24 the ~~Department of Education~~ Division of Elementary and Secondary Education
25 under subdivision (e)(1) of this section.

26 (f) If the ~~Department~~ Division of Higher Education receives
27 applications from more qualified applicants than the number of scholarships
28 available or if funds are not available to award scholarships to all
29 qualified applicants, the ~~Department~~ Division of Higher Education shall award
30 the scholarships on a competitive basis as determined by the ~~Department~~
31 Division of Higher Education.

32 (g) If a recipient of a scholarship under this subchapter withdraws
33 from an approved institution of higher education so that under the rules of
34 that approved institution of higher education the recipient is entitled to a
35 refund of any tuition, fees, or other charges, the approved institution of
36 higher education shall pay the refund to which the recipient may be entitled

1 to the ~~Department~~ Division of Higher Education to the extent of any amount
2 the ~~Department~~ Division of Higher Education has paid to the recipient for
3 that academic year.

4 (h) The ~~Department~~ Division of Higher Education shall promulgate rules
5 to implement this subchapter.

6
7 SECTION 2129. Arkansas Code § 6-84-104(b), concerning the creation of
8 the Arkansas Tax-Deferred Tuition Savings Program Trust, is amended to read
9 as follows:

10 (b) The co-trustees of the trust shall be the Director of the
11 ~~Department~~ Division of Higher Education, the Executive Director of the
12 Arkansas Teacher Retirement System, and the Treasurer of State.

13
14 SECTION 2130. Arkansas Code § 6-84-105(a)(1), concerning the
15 administration, authority, and powers of the Section 529 Plan Review
16 Committee, is amended to read as follows:

17 (1) The Director of the ~~Department~~ Division of Higher Education;

18
19 SECTION 2131. The introductory language of Arkansas Code § 6-85-
20 104(1), concerning the definition of "approved institution" under the laws
21 governing the Arkansas Academic Challenge Scholarship Program – Part 1, is
22 amended to read as follows:

23 (1) "Approved institution" means an institution of higher
24 education approved by the ~~Department~~ Division of Higher Education to
25 participate in the Arkansas Academic Challenge Scholarship Program that is:

26
27 SECTION 2132. Arkansas Code § 6-85-104(2)(B), concerning the
28 definition of "eligible student" under the laws governing the Arkansas
29 Academic Challenge Scholarship Program, is amended to read as follows:

30 (B) Is deemed to be eligible by rules authorized by this
31 subchapter and promulgated by the ~~Department~~ Division of Higher Education;

32
33 SECTION 2133. Arkansas Code § 6-85-104(3), concerning the definition
34 of "financial need" under the laws governing the Arkansas Academic Challenge
35 Scholarship Program, is amended to read as follows:

36 (3) "Financial need" means the family income of program

1 applicants as determined by the ~~Department~~ Division of Higher Education
2 through evaluation of program applications and supporting documentation;

3
4 SECTION 2134. Arkansas Code § 6-85-104(4)(A), concerning the
5 definition of "full-time undergraduate student" under the laws governing the
6 Arkansas Academic Challenge Scholarship Program, is amended to read as
7 follows:

8 (4)(A) "Full-time undergraduate student" means a resident of
9 Arkansas who attends an approved institution and who is enrolled for at least
10 twelve (12) credit hours the first semester and fifteen (15) credit hours
11 thereafter or the equivalent, as defined by the ~~Department~~ Division of Higher
12 Education, in a program of study that leads to or is creditable toward a
13 baccalaureate degree, an associate degree in nursing, or a nursing school
14 diploma.

15
16 SECTION 2135. Arkansas Code § 6-85-105 is amended to read as follows:

17 6-85-105. Authority of ~~Department~~ Division of Higher Education.

18 (a) The ~~Department~~ Division of Higher Education is authorized by this
19 subchapter to develop and promulgate rules for the administration of the
20 Arkansas Academic Challenge Scholarship Program, consistent with the purposes
21 and requirements of this subchapter.

22 (b) The rules shall include student eligibility criteria based on the
23 provisions of this subchapter, the method for selecting scholarship
24 recipients, rules for determining continuing eligibility, procedures for
25 making payment to recipients, and other administrative procedures that may be
26 necessary for the implementation and operation of the program.

27 (c) Until the end of fiscal year 2011, the ~~Department~~ Division of
28 Higher Education is authorized to expend each year for data processing and
29 other administrative costs of this program up to one and five-tenths percent
30 (1.5%) of the amount appropriated for the programs.

31 (d) Applicants must certify that they are drug-free and must pledge in
32 writing on the application form to refrain from the use or abuse of illegal
33 substances in order to maintain eligibility for this program.

34 (e)(1) The ~~Department of Education~~ Division of Elementary and
35 Secondary Education and the ~~Department~~ Division of Higher Education are
36 directed to develop appropriate informational materials on the Arkansas

1 Academic Challenge Scholarship Program and to ensure their distribution to
2 Arkansas students in grades seven through twelve (7-12) each year as part of
3 the packet of materials on precollegiate preparation distributed by the
4 ~~Department of Education~~ Division of Elementary and Secondary Education as
5 mandated by § 6-61-217.

6 (2) The distribution of information shall be accomplished
7 through the collaboration of school counselors and other appropriate school
8 personnel.

9 (f) The Director of the ~~Department~~ Division of Higher Education is
10 authorized to review and evaluate the operation of the program with regard to
11 eligibility criteria and size of the scholarship award to ensure that the
12 program's operation meets the intent of this subchapter.

13 (g) The ~~Department~~ Division of Higher Education is authorized to
14 determine the necessary procedures for the awarding of scholarships should
15 the number of eligible applicants exceed the funds available.

16 (h) The ~~Department~~ Division of Higher Education shall report to the
17 General Assembly annually regarding the implementation of the provisions of
18 this subchapter.

19
20 SECTION 2136. Arkansas Code § 6-85-106(a), concerning eligibility for
21 the Arkansas Academic Challenge Scholarship Program, is amended to read as
22 follows:

23 (a) Eligibility for the Arkansas Academic Challenge Scholarship
24 Program is based on the criteria under this section and rules promulgated
25 under this subchapter by the ~~Department~~ Division of Higher Education.

26
27 SECTION 2137. Arkansas Code § 6-85-106(b)(4), concerning eligibility
28 for the Arkansas Academic Challenge Scholarship Program, is amended to read
29 as follows:

30 (4) The applicant is accepted for admission at an approved
31 institution as a full-time first-time freshman as defined by the ~~Department~~
32 Division of Higher Education and enrolls in an approved institution within
33 twelve (12) months of the applicant's high school graduation;

34
35 SECTION 2138. Arkansas Code § 6-85-106(b)(5)(B)(i) and (ii),
36 concerning eligibility for the Arkansas Academic Challenge Scholarship

1 Program, are amended to read as follows:

2 (i) Successfully completed the Smart Core curriculum
3 as established by the ~~Department of Education~~ Division of Elementary and
4 Secondary Education; and

5 (ii)(a) Demonstrated proficiency in the application
6 of knowledge and skills in reading and writing literacy and mathematics by
7 passing the end-of-course assessments developed by the ~~Department of~~
8 ~~Education~~ Division of Elementary and Secondary Education.

9 (b) "End-of-course" assessments means those
10 assessments defined in § 6-15-419.

11

12 SECTION 2139. Arkansas Code § 6-85-106(b)(5)(C)(ii), concerning
13 eligibility for the Arkansas Academic Challenge Scholarship Program, is
14 amended to read as follows:

15 (ii) A minimum composite score of nineteen (19) or
16 higher on the American College Test or the equivalent as defined by the
17 ~~Department~~ Division of Higher Education.

18

19 SECTION 2140. Arkansas Code § 6-85-106(b)(5)(D), concerning
20 eligibility for the Arkansas Academic Challenge Scholarship Program, is
21 amended to read as follows:

22 (D)(i) The grade point average requirements of subdivision
23 (b)(5)(C) of this section may be reduced to no lower than a 2.5 on a 4.0
24 scale by a rules change by the ~~Department~~ Division of Higher Education if it
25 is determined by the ~~Department~~ Division of Higher Education, based on the
26 most recent evaluation of the program's operation, that the change to a 3.0
27 or 2.75 grade point average on a 4.0 scale would unduly reduce the number of
28 low-income or disadvantaged students who would otherwise be eligible for the
29 program.

30 (ii) At the ~~Department~~ Division of Higher
31 Education's discretion, the ~~Department~~ Division of Higher Education may make
32 the reduction for admissions to institutions with a high percentage of
33 students receiving full Pell Grants upon petition to the ~~Department~~ Division
34 of Higher Education by the institution.

35

36 SECTION 2141. Arkansas Code § 6-85-106(b)(5)(E)(i), concerning

1 eligibility for the Arkansas Academic Challenge Scholarship Program, is
2 amended to read as follows:

3 (E)(i) The ~~Department~~ Division of Higher Education may
4 develop selection criteria through program rules that combine an applicant's
5 American College Test or equivalent score and grade point average in the core
6 curriculum into a selection index.

7
8 SECTION 2142. Arkansas Code § 6-85-106(b)(6)(A), concerning
9 eligibility for the Arkansas Academic Challenge Scholarship Program, is
10 amended to read as follows:

11 (6)(A) An applicant shall demonstrate financial need as defined
12 by the ~~Department~~ Division of Higher Education.

13
14 SECTION 2143. The introductory language of Arkansas Code § 6-85-
15 106(b)(6)(B), concerning eligibility for the Arkansas Academic Challenge
16 Scholarship Program, is amended to read as follows:

17 (B) The ~~Department~~ Division of Higher Education shall use
18 the following criteria in calculating financial need for applicants who
19 graduated from an Arkansas high school after December 31, 2000, but before
20 December 31, 2004:

21
22 SECTION 2144. Arkansas Code § 6-85-106(b)(6)(B)(iv), concerning
23 eligibility for the Arkansas Academic Challenge Scholarship Program, is
24 amended to read as follows:

25 (iv) Any applicant whose family includes more than
26 one (1) unemancipated child enrolled full time at an approved institution
27 shall be entitled to an additional ten thousand dollars (\$10,000) of adjusted
28 gross income for each additional unemancipated child enrolled full time at an
29 approved institution when the ~~Department~~ Division of Higher Education
30 calculates financial need.

31
32 SECTION 2145. The introductory language of Arkansas Code § 6-85-
33 106(b)(6)(C), concerning eligibility for the Arkansas Academic Challenge
34 Scholarship Program, is amended to read as follows:

35 (C) In calculating financial need for applicants who
36 graduate from an Arkansas high school after December 31, 2006, a Free

1 Application for Federal Student Aid or a subsequent application required by
2 the United States Department of Education for federal financial aid shall be
3 filed by the applicant or other proof of family income as defined by the
4 ~~Department~~ Division of Higher Education. The following criteria shall be
5 used:

6
7 SECTION 2146. Arkansas Code § 6-85-106(b)(6)(C)(iv), concerning
8 eligibility for the Arkansas Academic Challenge Scholarship Program, is
9 amended to read as follows:

10 (iv) Any applicant whose family includes more than
11 one (1) unemancipated child enrolled full time at an approved institution of
12 higher education shall be entitled to an additional ten thousand dollars
13 (\$10,000) of adjusted gross income for each additional unemancipated child
14 enrolled full time at an approved institution of higher education when the
15 ~~Department~~ Division of Higher Education calculates financial need.

16
17 SECTION 2147. Arkansas Code § 6-85-106(c)(2), concerning eligibility
18 for the Arkansas Academic Challenge Scholarship Program, is amended to read
19 as follows:

20 (2) Financial need criteria necessary for the selection of
21 recipients, including those defined as emancipated or independent by federal
22 student aid regulations, shall be established through rules issued by the
23 ~~Department~~ Division of Higher Education.

24
25 SECTION 2148. Arkansas Code § 6-85-106(e)(2)(C), concerning
26 eligibility for the Arkansas Academic Challenge Scholarship Program, is
27 amended to read as follows:

28 (C) Shall receive the prerequisite training in literacy
29 and college readiness from an accredited Arkansas institution of higher
30 education based on training modules developed by the ~~Department of Education~~
31 Division of Elementary and Secondary Education; and

32
33 SECTION 2149. Arkansas Code § 6-85-107(a)(3), concerning the duration
34 and amount of the Arkansas Academic Challenge Scholarship Program, is amended
35 to read as follows:

36 (3) The recipient meets any other continuing eligibility

1 criteria established by the ~~Department~~ Division of Higher Education.

2
3 SECTION 2150. Arkansas Code § 6-85-108 is amended to read as follows:
4 6-85-108. Nursing school eligibility.

5 (a)(1) The General Assembly recognizes that the State of Arkansas is
6 experiencing a critical shortage of nurses.

7 (2) It is the intent of this section to allow the ~~Department~~
8 Division of Higher Education the opportunity to include associate degree
9 granting and diploma schools of nursing in the Arkansas Academic Challenge
10 Scholarship Program under specific circumstances.

11 (b) The ~~department~~ division shall make awards to applicants attending
12 either an associate degree or diploma school preparing registered nurses that
13 is approved by the Arkansas State Board of Nursing and which would not
14 otherwise be an approved institution if:

15 (1) The nursing school is specifically recognized by the
16 ~~department~~ division as a school of nursing eligible to participate in the
17 Arkansas Academic Challenge Scholarship Program; and

18 (2) The recipient meets continuing eligibility requirements in §
19 6-85-106.

20 (c) The scholarships awarded to recipients under this section shall be
21 subject to § 6-85-105(g).

22 (d) The Arkansas Higher Education Coordinating Board and the
23 ~~department~~ division shall promulgate rules necessary for the implementation
24 of this section.

25
26 SECTION 2151. Arkansas Code § 6-85-109 is amended to read as follows:
27 6-85-109. Priority for teaching commitment.

28 (a) During times of funding shortages under the Arkansas Academic
29 Challenge Scholarship Program, the ~~Department~~ Division of Higher Education
30 shall give a priority to awards to applicants meeting all eligibility
31 requirements under the program who agree to accept a forgivable loan, as set
32 forth in this section, in lieu of a scholarship and who agree to teach, as
33 required under § 6-85-110, in a:

34 (1) Subject matter area designated by the ~~Department of~~
35 Education Division of Elementary and Secondary Education as having a critical
36 shortage of teachers; or

1 (2) Geographical area of the state designated by the ~~Department~~
2 ~~of Education~~ Division of Elementary and Secondary Education as having a
3 critical shortage of teachers.

4 (b) The ~~Department~~ Division of Higher Education shall make awards
5 under this subchapter as follows:

6 (1) First, to applicants who agree to the provisions of this
7 section; and

8 (2) Then to applicants eligible under § 6-85-106(b).

9 (c) Forgivable loans awarded under this section shall be paid from
10 appropriations to the program.

11
12 SECTION 2152. Arkansas Code § 6-85-110(a)(1)(A) and (B), concerning
13 teaching requirements, are amended to read as follows:

14 (A) In a subject matter area designated by the ~~Department~~
15 ~~of Education~~ Division of Elementary and Secondary Education as having a
16 critical shortage of teachers if the recipient's award was made under § 6-85-
17 109(a)(1); or

18 (B) In a geographical area of the state designated by the
19 ~~Department of Education~~ Division of Elementary and Secondary Education as
20 having a critical shortage of teachers if the recipient's award was made
21 under § 6-85-109(a)(2).

22
23 SECTION 2153. Arkansas Code § 6-85-110(a)(2)(B), concerning teaching
24 requirements, is amended to read as follows:

25 (B) Any person who received a forgivable loan under § 6-
26 85-109 in an amount less than four (4) annual awards or the equivalent of
27 four (4) annual awards shall render one (1) year's service as a licensed
28 teacher for each year that the person received a full-time student forgivable
29 loan or for the number of academic hours equivalent to one (1) school year,
30 as determined by the ~~Department~~ Division of Higher Education, for which a
31 part-time student received a forgivable loan.

32
33 SECTION 2154. Arkansas Code § 6-85-110(b), concerning teaching
34 requirements, is amended to read as follows:

35 (b) Any person receiving a forgivable loan shall execute a note made
36 payable to the ~~Department~~ Division of Higher Education for an amount equal to

1 the scholarship award each semester that shall bear interest at a rate to be
2 determined by the ~~Department~~ Division of Higher Education and set forth in
3 the note after completion of the program or immediately after termination of
4 the forgivable loan, whichever is earlier.

5
6 SECTION 2155. Arkansas Code § 6-85-110(d), concerning teaching
7 requirements, is amended to read as follows:

8 (d)(1) Except as provided in subdivision (d)(2) of this section, any
9 person failing to complete the teaching obligation as required by this
10 subchapter shall become immediately liable to the ~~Department~~ Division of
11 Higher Education for the sum of all forgivable loan awards made to that
12 person less the corresponding amount of any awards for which service has been
13 rendered according to the note's terms.

14 (2) The ~~Department~~ Division of Higher Education may defer
15 payment on the note if an employment position is not immediately available
16 upon a teacher's completion of licensure requirements or for other just cause
17 as determined by the ~~Department of Education~~ Division of Elementary and
18 Secondary Education.

19 (3) After the period of deferral, the person shall begin or
20 resume teaching duties as required under this section or shall become liable
21 to the ~~Department~~ Division of Higher Education under this section.

22
23 SECTION 2156. Arkansas Code § 6-85-111 is amended to read as follows:
24 6-85-111. End-of-course assessment requirements.

25 The ~~Department~~ Division of Higher Education may recognize a sub-score
26 of nineteen (19) or higher in the applicable subject area on the American
27 College Test as meeting the requirements for passing end-of-course
28 assessments under the Arkansas Academic Challenge Scholarship Program and the
29 Arkansas Governor's Scholars Program for a student who:

30 (1) Has not had an opportunity to take an end-of-course
31 assessment;

32 (2) Has not passed the end-of-course assessment; or

33 (3) Is attending a private school or home school.

34
35 SECTION 2157. Arkansas Code § 6-85-204(2), concerning the definition
36 of "ACT equivalent" under the laws governing the Arkansas Academic Challenge

1 Scholarship Program – Part 2, is amended to read as follows:

2 (2) “ACT equivalent” means the Scholastic Aptitude Test (SAT),
3 COMPASS, Accuplacer, or other nationally normed test that is correlated with
4 the ACT and approved by the ~~Department~~ Division of Higher Education for use
5 by institutions of higher education to assess a person’s college readiness;

6
7 SECTION 2158. The introductory language of Arkansas Code § 6-85-
8 204(3), concerning the definition of "approved institution of higher
9 education" under the laws governing the Arkansas Academic Challenge
10 Scholarship Program, is amended to read as follows:

11 (3) “Approved institution of higher education” means an
12 institution of higher education approved by the ~~Department~~ Division of Higher
13 Education to participate in the Arkansas Academic Challenge Scholarship
14 Program – Part 2 and that is:

15
16 SECTION 2159. Arkansas Code § 6-85-204(4)(E), concerning the
17 definition of "approved school of nursing" under the laws governing the
18 Arkansas Academic Challenge Scholarship Program, is amended to read as
19 follows:

20 (E) Has been approved by the ~~Department~~ Division of Higher
21 Education as eligible to participate in the Arkansas Academic Challenge
22 Scholarship Program; and

23
24 SECTION 2160. The introductory language of Arkansas Code § 6-85-
25 204(5), concerning the definition of "Arkansas resident" under the laws
26 governing the Arkansas Academic Challenge Scholarship Program, is amended to
27 read as follows:

28 (5) “Arkansas resident” means a natural person who provides
29 evidence deemed sufficient by the ~~Department~~ Division of Higher Education
30 that:

31
32 SECTION 2161. Arkansas Code § 6-85-204(20), concerning the definition
33 of "scholarship hold" under the laws governing the Arkansas Academic
34 Challenge Scholarship Program, is amended to read as follows:

35 (20) “Scholarship hold” means the temporary suspension of a
36 scholarship award to a traditional student under this subchapter approved by

1 the ~~Department~~ Division of Higher Education under § 6-85-221;

2
3 SECTION 2162. The introductory language of Arkansas Code § 6-85-
4 204(21), concerning the definition of "semester" under the laws governing the
5 Arkansas Academic Challenge Scholarship Program, is amended to read as
6 follows:

7 (21) "Semester" means one-half ($\frac{1}{2}$) of a traditional academic
8 year at an institution of higher education, or an equivalent approved by the
9 ~~Department~~ Division of Higher Education, in which a student enrolls for not
10 less than:

11
12 SECTION 2163. Arkansas Code § 6-85-204(22)(B)(i), concerning the
13 definition of "Smart Core" under the laws governing the Arkansas Academic
14 Challenge Scholarship Program, is amended to read as follows:

15 (i) Established by rules of the ~~state board~~ State
16 Board of Education in coordination with the ~~Department~~ Division of Higher
17 Education; and

18
19 SECTION 2164. Arkansas Code § 6-85-204(23)(A), concerning the
20 definition of "state-supported student financial assistance" under the laws
21 governing the Arkansas Academic Challenge Scholarship Program, is amended to
22 read as follows:

23 (A) The ~~Department~~ Division of Higher Education; or

24
25 SECTION 2165. Arkansas Code § 6-85-204(26)(B), concerning the
26 definition of "traditional student" under the laws governing the Arkansas
27 Academic Challenge Scholarship Program, is amended to read as follows:

28 (B) "Traditional student" includes a student who otherwise
29 meets this definition but delays entering postsecondary education under a
30 scholarship hold approved by the ~~Department~~ Division of Higher Education.

31
32 SECTION 2166. Arkansas Code § 6-85-205 is amended to read as follows:

33 6-85-205. Authority and duties of the ~~Department~~ Division of Higher
34 Education.

35 (a) The ~~Department~~ Division of Higher Education shall develop and
36 promulgate rules for the administration of the Arkansas Academic Challenge

1 Scholarship Program consistent with the purposes and requirements of this
2 subchapter.

3 (b) The rules developed and promulgated by the ~~Department~~ Division of
4 Higher Education under this section shall pertain to:

5 (1) Student eligibility criteria based on this subchapter;

6 (2) The method for selecting scholarship recipients and for
7 determining continuing eligibility;

8 (3) The procedures for making payment to an approved institution
9 of higher education where the recipient is enrolled; and

10 (4) Other administrative procedures that may be necessary for
11 the implementation and operation of the program.

12 (c) The ~~Department~~ Division of Higher Education shall implement a
13 complete financial aid management system that uses a single application form
14 that may be accessed as a web-based application for all Arkansas state-
15 supported student financial assistance administered by the ~~Department~~
16 Division of Higher Education, including:

17 (1) Scholarships awarded under this subchapter or other state
18 law that are funded with net proceeds from the state lottery; and

19 (2) Scholarships, grants, or other financial assistance for
20 higher education students funded with nonlottery state educational resources.

21 (d)(1) The ~~Department of Education~~ Division of Elementary and
22 Secondary Education and the ~~Department~~ Division of Higher Education are
23 directed to develop appropriate informational materials on the Arkansas
24 Academic Challenge Scholarship Program and to ensure distribution of the
25 materials to Arkansas students in grade seven through grade twelve (7-12)
26 each year as a part of the packet of materials on precollegiate preparation
27 distributed by the Arkansas Higher Education Coordinating Board under § 6-61-
28 217 and by the ~~Department of Education~~ Division of Elementary and Secondary
29 Education under the Higher Education Awareness Act of 1993, § 6-5-401 et seq.

30 (2) The distribution of informational materials under this
31 section shall be accomplished through the collaboration of school counselors
32 and other appropriate public school or ~~Department~~ Division of Higher
33 Education personnel.

34 (3) The ~~Department~~ Division of Higher Education shall provide a
35 copy of the informational materials developed under this section to the
36 Legislative Council for review.

1 (e) The Director of the ~~Department~~ Division of Higher Education shall
2 review and evaluate the operation of the program with regard to eligibility
3 criteria and size of the scholarship award to ensure that the program's
4 operation meets the intent of this subchapter.

5 (f) The ~~Department~~ Division of Higher Education may determine the
6 necessary procedures for the awarding of scholarships if the number of
7 eligible applicants exceeds the funds available based on the criteria under
8 this subchapter.

9 (g)(1)(A) By July 15 of each year, the Director of the ~~Department~~
10 Division of Higher Education shall provide a report to the Legislative
11 Council on:

12 (i) The implementation of this subchapter;

13 (ii) The number of recipients that either:

14 (a) Dropped out during the academic year; or

15 (b) Lost the scholarship during the academic

16 year; and

17 (iii) Any additional information requested by the
18 Legislative Council.

19 (B) The Legislative Council shall include the information
20 reported under this subsection in its annual report to the General Assembly
21 under § 6-85-220.

22 (2) By August 1 of each year, the ~~Department~~ Division of Higher
23 Education shall provide to the Legislative Council an unaudited financial
24 report on the administration of the Arkansas Academic Challenge Scholarship
25 Program for the fiscal year just ended.

26
27 SECTION 2167. Arkansas Code § 6-85-206(1)(C)(i), concerning basic
28 eligibility requirements for an award from the Arkansas Academic Challenge
29 Scholarship Program – Part 2, is amended to read as follows:

30 (C)(i) To be considered an Arkansas resident, an applicant
31 shall demonstrate residency by evidence deemed sufficient to the ~~Department~~
32 Division of Higher Education.

33
34 SECTION 2168. The introductory language of Arkansas Code § 6-85-
35 206(1)(D), concerning basic eligibility requirements for an award from the
36 Arkansas Academic Challenge Scholarship Program – Part 2, is amended to read

1 as follows:

2 (D) During the twelve (12) months immediately preceding
3 the date an applicant will enroll in an approved institution of higher
4 education if the person for whom the twelve-month period is calculated under
5 subdivision (1)(A) or subdivision (1)(B) of this section is deployed outside
6 of Arkansas under military orders, the ~~Department~~ Division of Higher
7 Education shall calculate the twelve (12) months by:

8

9 SECTION 2169. Arkansas Code § 6-85-206(3)(B) and (C), concerning basic
10 eligibility requirements for an award from the Arkansas Academic Challenge
11 Scholarship Program – Part 2, are amended to read as follows:

12 (B) A full-time student shall enroll in at least twenty-
13 seven (27) semester hours the first academic year and thirty (30) semester
14 hours per academic year thereafter or the equivalent, as described in this
15 subchapter, or the equivalent as defined by the ~~Department~~ Division of Higher
16 Education.

17 (C) A part-time student shall complete at least six (6)
18 semester hours but less than the minimum number of semester hours for a full-
19 time student, as defined by the ~~Department~~ Division of Higher Education;

20

21 SECTION 2170. Arkansas Code § 6-85-207(3)(B), concerning additional
22 eligibility requirements for traditional students, is amended to read as
23 follows:

24 (B) In the year in which the student would have been a
25 junior or senior in high school, completed the requirements for high school
26 graduation and obtained a high school equivalency diploma approved by the
27 ~~Department of Career Education~~ Adult Education Section of the Division of
28 Workforce Services instead of receiving a diploma; or

29

30 SECTION 2171. Arkansas Code § 6-85-208(1)(B), concerning additional
31 eligibility requirements for a nontraditional student, is amended to read as
32 follows:

33 (B) Graduated from an Arkansas public high school, a
34 private high school, an out-of-state high school, a home school high school,
35 or obtained a high school equivalency diploma approved by the ~~Department of~~
36 ~~Career Education~~ Adult Education Section of the Division of Workforce

1 Services and had a minimum composite score of nineteen (19) on the ACT or the
2 equivalent score on an ACT equivalent; or

3
4 SECTION 2172. Arkansas Code § 6-85-209(a)(2)(A)(ii), concerning
5 additional eligibility requirements for a current achiever student, is
6 amended to read as follows:

7 (ii) In calculating continuous enrollment under this
8 section, the ~~Department~~ Division of Higher Education may include one (1) or
9 more courses taken during the summer that meet the criteria for a course
10 under subdivision (a)(2)(B)(ii) of this section;

11
12 SECTION 2173. Arkansas Code § 6-85-209(b), concerning additional
13 eligibility requirements for a current achiever student, is amended to read
14 as follows:

15 (b) The ~~department~~ division may waive the requirements of subdivision
16 (a)(1)(B) or subdivision (a)(2) of this section for eligibility under this
17 section if an applicant does not meet those eligibility requirements due to
18 the applicant's full-time duty in the active uniformed service of the United
19 States, including members of the National Guard and reserve components of the
20 United States Armed Forces on active duty orders.

21
22 SECTION 2174. Arkansas Code § 6-85-210(b)(2)(A)(i), concerning
23 continuing eligibility for scholarships, is amended to read as follows:

24 (2)(A)(i) A recipient shall meet the satisfactory academic
25 progress standards required to receive other financial aid at the approved
26 institution of higher education where the recipient is enrolled, as
27 determined by the ~~Department~~ Division of Higher Education in conjunction with
28 the institution of higher education where the recipient is enrolled.

29
30 SECTION 2175. Arkansas Code § 6-85-210(b)(2)(A)(ii)(b), concerning
31 continuing eligibility for scholarships, is amended to read as follows:

32 (b) The ~~department~~ division shall notify the
33 recipient of the loss of eligibility under this subdivision (b)(2)(A)(ii).

34
35 SECTION 2176. The introductory language of Arkansas Code § 6-85-
36 210(b)(2)(B), concerning continuing eligibility for scholarships, is amended

1 to read as follows:

2 (B) The ~~department~~ division may approve a leave of absence
3 for a reason that includes without limitation:

4

5 SECTION 2177. Arkansas Code § 6-85-210(b)(2)(B)(iv)(c), concerning
6 continuing eligibility for scholarships, is amended to read as follows:

7 (c) The ~~department~~ division shall release a
8 scholarship hold if the ~~department~~ division determines that the student did
9 not complete the commitment under the written agreement; or

10

11 SECTION 2178. Arkansas Code § 6-85-210(b)(2)(B)(v), concerning
12 continuing eligibility for scholarships, is amended to read as follows:

13 (v) Any other reason approved by the ~~department~~
14 division;

15

16 SECTION 2179. Arkansas Code § 6-85-210(b)(6), concerning continuing
17 eligibility for scholarships, is amended to read as follows:

18 (6) A recipient shall meet any other continuing eligibility
19 criteria established by the ~~department~~ division.

20

21 SECTION 2180. Arkansas Code § 6-85-210(d), concerning continuing
22 eligibility for scholarships, is amended to read as follows:

23 (d) If a recipient is subject to losing a scholarship under subsection
24 (c) of this section due to a catastrophic event experienced by the recipient
25 or a family member of the recipient, the ~~department~~ division may waive the
26 requirements of this section and determine the appropriate requirements for
27 the recipient to either retain or regain the scholarship.

28

29 SECTION 2181. Arkansas Code § 6-85-211(b), concerning literacy
30 tutoring, is amended to read as follows:

31 (b) A recipient who agrees to volunteer as a literacy tutor under this
32 section shall receive the prerequisite training in literacy and college
33 readiness from an approved institution of higher education based on training
34 modules developed by the ~~Department of Education~~ Division of Elementary and
35 Secondary Education.

36

1 SECTION 2182. Arkansas Code § 6-85-212(e)(1)(B)-(D), concerning
2 scholarship award amounts, is amended to read as follows:

3 (B) The ~~Department~~ Division of Higher Education shall not
4 accept new applications for scholarships for current achiever students under
5 § 6-85-209 after June 1, 2012.

6 (C)(i) To determine the correct scholarship award amount
7 based on credit hours, a first-time recipient shall submit a current college
8 or university transcript if the first-time recipient has earned any semester
9 credit hours to the ~~Department~~ Division of Higher Education no later than a
10 date determined by the ~~Department~~ Division of Higher Education prior to the
11 academic year for which the first-time recipient will receive an initial
12 scholarship award.

13 (ii) A first-time recipient who does not submit a
14 transcript to the ~~Department~~ Division of Higher Education on or before June 1
15 shall receive the award amount under subdivision (e)(1)(A)(i) of this
16 section.

17 (D)(i) An applicant may elect for the earned semester
18 credit hours under subdivision (e)(1)(A) of this section to be only those
19 semester credit hours earned after graduating from high school or obtaining a
20 high school equivalency diploma approved by the ~~Department of Career~~
21 Education Adult Education Section of the Division of Workforce Services.

22 (ii) If an applicant makes the election under
23 subdivision (e)(1)(D)(i) of this section, any semester credit hours earned
24 through concurrent credit or any other method before graduating high school
25 or obtaining a high school equivalency diploma approved by the ~~Department of~~
26 Career Education Adult Education Section of the Division of Workforce
27 Services shall not be counted as earned semester credit hours for the
28 purposes of determining a recipient's scholarship award amount under
29 subdivision (e)(1)(A) of this section.

30
31 SECTION 2183. Arkansas Code § 6-85-212(e)(2) and (3), concerning
32 scholarship award amounts, is amended to read as follows:

33 (2)(A) The ~~Department~~ Division of Higher Education shall award
34 an aggregate amount of scholarship awards to nontraditional students
35 beginning with the 2017-2018 academic year of up to fifteen million dollars
36 (\$15,000,000).

1 (B)(i) The ~~Department~~ Division of Higher Education shall
2 return to the Office of the Arkansas Lottery the excess funding, if any, for
3 scholarship awards under this subchapter the ~~Department~~ Division of Higher
4 Education received under § 23-115-801.

5 (ii) The office shall deposit any funds received
6 from the ~~Department~~ Division of Higher Education under this subdivision
7 (e)(2)(B) into a trust account established under § 23-115-801(b).

8 (C) Priority for scholarships awarded to nontraditional
9 students and current achiever students is based on:

10 (i) The applicant's level of progress toward
11 completion of a certificate, an associate degree, a nursing diploma, a
12 baccalaureate degree, or a graduate-level or professional degree; or

13 (ii) Other criteria established by the ~~Department~~
14 Division of Higher Education.

15
16 SECTION 2184. The introductory language of Arkansas Code § 6-85-
17 212(e)(6), concerning scholarship award amounts, is amended to read as
18 follows:

19 (6) The ~~Department~~ Division of Higher Education shall give
20 priority for a scholarship award to a full-time or part-time student:
21

22 SECTION 2185. Arkansas Code § 6-85-212(i)(1), concerning scholarship
23 award amounts, is amended to read as follows:

24 (i)(1) If the ~~Department~~ Division of Higher Education has less than a
25 sufficient amount from net proceeds from the state lottery to provide for the
26 scholarship commitments under this subchapter, the ~~Department~~ Division of
27 Higher Education shall give priority for continued financial support under
28 this subchapter to a student with continuing eligibility superior to first-
29 time applicants.
30

31 SECTION 2186. The introductory language of Arkansas Code § 6-85-
32 212(i)(2), concerning scholarship award amounts, is amended to read as
33 follows:

34 (2) If the funding is insufficient to fully fund the
35 scholarships for students with continuing eligibility created under this
36 subchapter, the ~~Department~~ Division of Higher Education shall award

1 scholarships based upon the following criteria to students with continuing
2 eligibility as follows:

3
4 SECTION 2187. Arkansas Code § 6-85-212(i)(2)(A)(i), concerning
5 scholarship award amounts, is amended to read as follows:

6 (i) In an area of critical workforce need as
7 determined by the ~~Department~~ Division of Higher Education; or

8
9 SECTION 2188. Arkansas Code § 6-85-212(i)(3), concerning scholarship
10 award amounts, is amended to read as follows:

11 (3)(A) If after funding all students with continuing eligibility
12 under this section funding is insufficient to fund all qualified first-time
13 applicants, the ~~Department~~ Division of Higher Education shall award
14 scholarships to first-time applicants in order of priority based upon the
15 applicants' highest ACT or ACT equivalent scores.

16 (B) If after prioritizing first-time applicants based upon
17 the applicants' ACT or ACT equivalent scores funding is insufficient to fund
18 all applicants with like ACT or ACT equivalent scores, the ~~Department~~
19 Division of Higher Education shall determine who receives an award by random
20 drawing.

21
22 SECTION 2189. Arkansas Code § 6-85-213 is amended to read as follows:
23 6-85-213. Nursing school eligibility.

24 (a)(1) The General Assembly recognizes that the State of Arkansas is
25 experiencing a critical shortage of nurses.

26 (2) It is the intent of this section to allow the ~~Department~~
27 Division of Higher Education the opportunity, under specific circumstances,
28 to include an approved school of nursing that would not otherwise be an
29 approved institution of higher education in the Arkansas Academic Challenge
30 Scholarship Program.

31 (b) The ~~department~~ division shall make awards to applicants attending
32 an approved school of nursing under this section if the recipient meets
33 continuing eligibility requirements in § 6-85-210.

34 (c) The ~~department~~ division shall pay scholarship awards under this
35 section only from nonlottery state educational resources.

36

1 SECTION 2190. Arkansas Code § 6-85-216 is amended to read as follows:

2 6-85-216. Institution report to the ~~department~~ division.

3 (a)(1) An approved institution of higher education that enrolls
4 students receiving scholarships under this subchapter annually shall provide
5 information and semiannually provide updated information to the ~~Department~~
6 Division of Higher Education regarding all state-supported student financial
7 assistance whether or not the state-supported student financial assistance is
8 awarded under this subchapter.

9 (2) The information shall be provided in the form of individual
10 student records and shall include without limitation information regarding:

- 11 (A) State-supported student financial assistance;
12 (B) Demographic student data; and
13 (C) Disaggregated data on remedial courses.

14 (3)(A) An approved institution of higher education shall
15 undertake the procedures necessary to ensure the collection and reporting of
16 student information under this section.

17 (B) An approved institution of higher education may lose
18 its approved status for receiving scholarship funds on behalf of a recipient
19 under this subchapter if it fails to make a good-faith effort to comply with
20 this section.

21 (C) In addition to the provisions of subdivision (a)(3)(B)
22 of this section, an institution of higher education that does not comply with
23 this section shall not be eligible to accept state aid from the Higher
24 Education Grants Fund Account on behalf of a student.

25 (b) The ~~department~~ division shall establish by rule the:

- 26 (1) Specific data required;
27 (2) Manner of reporting the information required; and
28 (3) Technology or software required for reporting.

29 (c) The ~~department~~ division shall use the information provided under
30 this section to conduct the research and analysis needed to support the
31 annual report of the Director of the ~~Department~~ Division of Higher Education
32 to the Legislative Council under § 6-85-205.

33
34 SECTION 2191. Arkansas Code § 6-85-217 is amended to read as follows:

35 6-85-217. Information provided to the Bureau of Legislative Research
36 by the ~~Department~~ Division of Higher Education.

1 The ~~Department~~ Division of Higher Education shall provide the following
2 data to the Bureau of Legislative Research through the Arkansas Higher
3 Education Information System under § 6-60-901 et seq., for the purpose of
4 assisting the General Assembly with evaluation and analysis under this
5 subchapter:

- 6 (1) Existing individual student data;
- 7 (2) Institutional data;
- 8 (3) Financial data;
- 9 (4) Aggregate student scholarship and grant application and
10 award data;
- 11 (5) Remedial course data; and
- 12 (6) Other data needed to track scholarship and grant students
13 receiving state-supported student financial assistance from year to year.

14
15 SECTION 2192. Arkansas Code § 6-85-219 is amended to read as follows:
16 6-85-219. Reports to legislative committees.

17 (a)(1) Annually by November 1, the ~~Department~~ Division of Higher
18 Education shall report to the Legislative Council in the manner and format
19 that the Legislative Council requires on all state-supported student
20 financial assistance awarded by the ~~department~~ division and awarded by
21 approved institutions of higher education.

- 22 (2) The information provided shall include without limitation:
 - 23 (A) Current year expenditures for scholarships and grants
24 under the Arkansas Academic Challenge Scholarship Program – Part 2;
 - 25 (B) Projected obligations for succeeding years from each
26 scholarship or grant funding source;
 - 27 (C) Fund balances for the:
 - 28 (i) Higher Education Grants Fund Account; and
 - 29 (ii) Trust accounts maintained by the Director of
30 the ~~Department~~ Division of Higher Education to hold the net proceeds from the
31 state lottery;
 - 32 (D) An evaluation of whether the net proceeds from the
33 state lottery available for the program supplement and do not supplant
34 nonlottery state educational resources; and
 - 35 (E) Other information that the Legislative Council or the
36 General Assembly requests.

1 (b) Annually by December 1, the ~~department~~ division shall report to
2 the Legislative Council its recommendations for changes to the program,
3 including without limitation:

4 (1) Adjustments to the eligibility requirements of the program;
5 and

6 (2) Increases or decreases in the amounts awarded for a
7 scholarship under the program based on the amount of net proceeds from the
8 state lottery available.

9 (c) Annually by December 31, the ~~department~~ division shall report to
10 the Legislative Council the following information on recipients of the
11 Arkansas Academic Challenge Scholarship Program – Part 2 who applied as of
12 June 1:

13 (1) Race;

14 (2) Grade point average;

15 (3) Composite score on the ACT or the equivalent score on an ACT
16 equivalent; and

17 (4) Family or individual income as reported on the student's
18 Free Application for Federal Student Aid (FAFSA).

19
20 SECTION 2193. Arkansas Code § 6-85-220(a)(4), concerning the annual
21 report by the Legislative Council, is amended to read as follows:

22 (4) Review the annual report of the Director of the ~~Department~~
23 Division of Higher Education under § 6-85-219;

24
25 SECTION 2194. Arkansas Code § 6-85-221(a)(1), concerning a scholarship
26 hold for a traditional student, is amended to read as follows:

27 (a)(1) The ~~Department~~ Division of Higher Education may approve a
28 scholarship hold for a traditional student for a period of twenty-four (24)
29 months or less.

30
31 SECTION 2195. Arkansas Code § 6-85-221(a)(2)(D)(iii), concerning a
32 scholarship hold for a traditional student, is amended to read as follows:

33 (iii) The ~~department~~ division shall release a
34 scholarship hold if the ~~department~~ division determines that the student did
35 not complete the commitment under the written agreement.

36

1 SECTION 2196. The introductory language of Arkansas Code § 6-85-
2 302(1), concerning the definition of "approved institution of higher
3 education" under the laws governing the Arkansas Workforce Challenge
4 Scholarship Program, is amended to read as follows:

5 (1) "Approved institution of higher education" means an
6 institution of higher education approved by the ~~Department~~ Division of Higher
7 Education to participate in the Arkansas Workforce Challenge Scholarship
8 Program and that is:

9
10 SECTION 2197. Arkansas Code § 6-85-303(a)(2)(A), concerning funding
11 for Arkansas Workforce Challenge Scholarships, is amended to read as follows:

12 (A) Transfers the funds requested by the ~~Department~~
13 Division of Higher Education under § 23-115-801(c)(2); and

14
15 SECTION 2198. Arkansas Code § 6-85-303(b)(1)(B), concerning funding
16 for Arkansas Workforce Challenge Scholarships, is amended to read as follows:

17 (B) The ~~department~~ division received a loan from the
18 Scholarship Shortfall Reserve Trust Account under § 23-115-802 for the
19 Arkansas Academic Challenge Scholarship Program – Part 2, § 6-85-201 et seq.,
20 for the previous academic year.

21
22 SECTION 2199. Arkansas Code § 6-85-305 is amended to read as follows:
23 6-85-305. Distribution – Award amounts.

24 (a) If funds are available, the ~~Department~~ Division of Higher
25 Education shall distribute Arkansas Workforce Challenge Scholarships to all
26 students who meet the requirements under § 6-85-304.

27 (b)(1) The ~~department~~ division shall distribute scholarships from the
28 funds available in an equal amount to every student eligible to receive a
29 scholarship under this subchapter.

30 (2) Except as provided in subsection (c) of this section, the
31 maximum scholarship award a student may receive in an academic year shall be
32 the lesser of:

33 (A) Eight hundred dollars (\$800); or

34 (B)(i) The cost of the certificate program or program of
35 study.

36 (ii) The cost of a certificate program or program of

1 study shall include:

- 2 (a) Tuition, fees, or other charges;
3 (b) Textbooks or other course materials; and
4 (c) Equipment needed for a course.

5 (3) The scholarship awards may be used for expenses included in
6 the cost of the certificate program or program of study.

7 (4) A scholarship under this section shall be only for the
8 academic year for which it is awarded.

9 (c)(1) If the ~~department~~ division has funds remaining after making the
10 distributions under subsection (b) of this section, the ~~department~~ division
11 shall distribute scholarships to students for the summer term of the academic
12 year.

13 (2) If funds are available under subdivision (c)(1) of this
14 section, a student shall apply for a scholarship for a summer term by a date
15 determined by the ~~department~~ division preceding the summer term.

16 (3)(A) The ~~department~~ division shall distribute scholarships for
17 a summer term in the same manner as under subsection (b) of this section.

18 (B) Scholarships for a summer term may be used in the same
19 manner as under subsection (b) of this section.

20 (4) A student who received a scholarship under subsection (b) of
21 this section may also receive a scholarship for a summer term.

22 (d) The ~~department~~ division shall disburse scholarship awards on
23 behalf of an eligible student directly to the approved institution of higher
24 education.

25

26 SECTION 2200. Arkansas Code § 6-85-307 is amended to read as follows:

27 6-85-307. Rules.

28 The ~~Department~~ Division of Higher Education shall promulgate rules to
29 implement this subchapter.

30

31 SECTION 2201. Arkansas Code § 9-27-330(a)(4)(B)(i) and (ii),
32 concerning the disposition, delinquency, and alternatives regarding a
33 juvenile, are amended to read as follows:

34 (B)(i) In addition, the court shall have the right as a
35 term of probation to require the juvenile to attend school or make
36 satisfactory progress toward attaining a high school equivalency diploma

1 approved by the ~~Department of Career Education~~ Adult Education Section of the
2 Division of Workforce Services.

3 (ii) The court shall have the right to revoke
4 probation if the juvenile fails to regularly attend school or if satisfactory
5 progress toward attaining a high school equivalency diploma approved by the
6 ~~Department of Career Education~~ Adult Education Section of the Division of
7 Workforce Services is not being made;

8
9 SECTION 2202. Arkansas Code § 9-27-332(a)(6)(A), concerning
10 disposition and family in need services, is amended to read as follows:

11 (6)(A) Place the juvenile on supervision terms, including
12 without limitation requiring the juvenile to attend school or make
13 satisfactory progress toward attaining a high school equivalency diploma
14 approved by the ~~Department of Career Education~~ Adult Education Section of the
15 Division of Workforce Services, requiring the juvenile to observe a curfew,
16 and prohibiting the juvenile from possessing or using any alcohol or illegal
17 drugs.

18
19 SECTION 2203. Arkansas Code § 9-28-113(a)(2)(A)(iii), concerning the
20 continuity of educational services to foster children, is amended to read as
21 follows:

22 (iii) The ~~Department of Education~~ Division of
23 Elementary and Secondary Education;

24
25 SECTION 2204. Arkansas Code § 9-28-113(c)(2), concerning the
26 continuity of educational services to foster children, is amended to read as
27 follows:

28 (2) Each school district shall forward the name of each foster
29 care liaison and the contact information to the Special Education Section of
30 the ~~Department of Education~~ Division of Elementary and Secondary Education at
31 the beginning of each school year.

32
33 SECTION 2205. Arkansas Code § 9-28-113(c)(3)(C)(ii), concerning the
34 continuity of educational services to foster children, is amended to read as
35 follows:

36 (ii) When a foster child changes school placement,

1 the foster care liaison in the new school district shall request the child's
2 educational record, as defined by rule of the ~~Department of Education~~
3 Division of Elementary and Secondary Education, from the foster care liaison
4 in the child's previous school district within three (3) school days.

5
6 SECTION 2206. Arkansas Code § 9-28-203(a)(10), concerning the powers
7 and duties of the Division of Youth Services, is amended to read as follows:

8 (10) Provide a system of education in residential facilities
9 operated by the ~~division~~ Division of Youth Services that conform to the
10 guidelines established by the ~~Department of Education~~ Division of Elementary
11 and Secondary Education and as set forth in § 9-28-205; and

12
13 SECTION 2207. Arkansas Code § 9-28-205(c)(1) and (2), concerning youth
14 services centers, are amended to read as follows:

15 (c)(1)(A) The ~~division~~ Division of Youth Services shall establish a
16 system of education that shall conform to the guidelines established by the
17 ~~Department of Education~~ Division of Elementary and Secondary Education.

18 (B) The ~~Department of Education~~ Division of Elementary and
19 Secondary Education shall establish guidelines for the ~~division's~~ Division of
20 Youth Services' system of education ~~no later than July 1, 2009~~.

21 (C)(i) The ~~division~~ Division of Youth Services, with the
22 support and assistance of the ~~Department of Education~~ Division of Elementary
23 and Secondary Education, shall conduct an education program assessment of
24 each ~~division~~ Division of Youth Services facility and provide a written
25 report of assessment findings to the ~~division~~ Division of Youth Services ~~no~~
26 ~~later than December 1, 2009~~.

27 (ii) The ~~division~~ Division of Youth Services, with
28 the support and assistance of the ~~Department of Education~~ Division of
29 Elementary and Secondary Education, shall submit a corrective action plan for
30 each ~~division~~ Division of Youth Services facility to the Director of the
31 Division of Youth Services, if needed, ~~no later than December 1, 2009~~.

32 (iii) The ~~Department of Education~~ Division of
33 Elementary and Secondary Education shall monitor the ~~division's~~ Division of
34 Youth Services' system of education to ensure that the guidelines established
35 by the ~~Department of Education~~ Division of Elementary and Secondary Education
36 are satisfied by the ~~division's~~ Division of Youth Services' system of

1 education.

2 (2) A student enrolled in the ~~division's~~ Division of Youth
3 Services' system of education shall receive credit for courses that meet the
4 guidelines established by the ~~Department of Education~~ Division of Elementary
5 and Secondary Education.

6
7 SECTION 2208. Arkansas Code § 9-28-205(d)-(f), concerning the youth
8 services centers, are amended to read as follows:

9 (d) The ~~division~~ Division of Youth Services, the ~~Department of~~
10 ~~Education~~ Division of Elementary and Secondary Education, and the ~~Department~~
11 Division of Career and Technical Education shall work collaboratively to
12 prepare courses of study for the ~~division's~~ Division of Youth Services'
13 system of education, including courses in career and technical education
14 suited to the age and capacity of the youths.

15 (e) The Department of Human Services, the ~~Department of Education~~
16 Division of Elementary and Secondary Education, and the ~~Department~~ Division
17 of Career and Technical Education may promulgate rules as necessary to
18 administer the requirements of this section.

19 (f) The Department of Human Services and the ~~Department of Education~~
20 Division of Elementary and Secondary Education shall report annually,
21 beginning on March 1, 2010, to the House Committee on Aging, Children and
22 Youth, Legislative and Military Affairs and to the Senate Interim Committee
23 on Children and Youth on the state of the ~~division's~~ Division of Youth
24 Services' system of education.

25
26 SECTION 2209. Arkansas Code § 9-28-208(a)(4), concerning an order of
27 commitment to the Division of Youth Services, is amended to read as follows:

28 (4) The committed juvenile's school or current educational
29 setting shall transmit the education record, as defined by rule of the
30 ~~Department of Education~~ Division of Elementary and Secondary Education, to
31 the ~~division~~ Division of Youth Services within ten (10) school days from the
32 request from the ~~division~~ Division of Youth Services.

33
34 SECTION 2210. Arkansas Code § 9-28-402(5)(A), concerning the
35 definition of "boarding school" under the Child Welfare Agency Licensing Act,
36 is amended to read as follows:

1 (A) The institution is in operation for a period of time
2 not to exceed the minimum number of weeks of classroom instruction required
3 of schools accredited by the ~~Department of Education~~ Division of Elementary
4 and Secondary Education;

5
6 SECTION 2211. Arkansas Code § 9-28-402(12)(C), concerning the
7 definition of "boarding school" under the Child Welfare Agency Licensing Act,
8 is amended to read as follows:

9 (C) A facility or program owned or operated by or under
10 contract with the ~~Department~~ Division of Correction;

11
12 SECTION 2212. Arkansas Code § 9-28-407(a)(5)(A)(iv), concerning the
13 requirement and issuance of a license for the operation of a child welfare
14 agency, is amended to read as follows:

15 (iv) The licensee is operating a nontraditional
16 program that is approved by the ~~Department of Education~~ Division of
17 Elementary and Secondary Education.

18
19 SECTION 2213. Arkansas Code § 9-28-407(h)(2)(E), concerning the
20 requirement and issuance of a license for the operation of a child welfare
21 agency, is amended to read as follows:

22 (E) To the Division of Children and Family Services of the
23 Department of Human Services and the ~~Department of Education~~ Division of
24 Elementary and Secondary Education, including child welfare agency licensing
25 specialists;

26
27 SECTION 2214. Arkansas Code § 9-28-1201(b)(2)(C), concerning the
28 creation and membership of the Youth Justice Reform Board, is amended to read
29 as follows:

30 (C) Representatives from the ~~Department of Education~~
31 Division of Elementary and Secondary Education, ~~Department~~ Division of
32 Workforce Services, the Division of Children and Family Services of the
33 Department of Human Services, and the Division of Aging, Adult, and
34 Behavioral Health Services of the Department of Human Services;

35
36 SECTION 2215. Arkansas Code § 10-2-127(a)(2), concerning a fiscal

1 impact statement developed by the Office of Economic and Tax Policy, is
2 amended to read as follows:

3 (2) The fiscal impact statement shall be developed by the Office
4 of Economic and Tax Policy with the assistance of the ~~Department of Education~~
5 Division of Elementary and Secondary Education within the guidelines adopted
6 by the House Committee on Education and the Senate Committee on Education, as
7 applicable.

8

9 SECTION 2216. Arkansas Code § 10-3-317 is amended to read as follows:

10 10-3-317. Disclosure of school district information and records –
11 Access to electronic databases of the ~~Department of Education~~ Division of
12 Elementary and Secondary Education.

13 (a)(1) The ~~Department of Education~~ Division of Elementary and
14 Secondary Education shall provide the Bureau of Legislative Research with
15 direct read-and-report-only access to the ~~department's~~ division's data
16 warehouse concerning school districts and related records.

17 (2) In providing the bureau with the direct read-and-report-only
18 access required under subdivision (a)(1) of this section, the ~~department~~
19 division shall take reasonable precautions, including electronic blocking or
20 redacting, to prevent the disclosure of:

21 (A) Personally identifiable information of a student
22 unless the parent or guardian of a minor student or a student who is no
23 longer a minor consents in writing to the disclosure of personally
24 identifiable information about that student; or

25 (B) Information that would cause the ~~department~~ division
26 to lose funding under the provisions of 20 U.S.C. § 1232g, as it existed on
27 January 1, 2007.

28 (3)(A) The ~~department~~ division shall make its staff reasonably
29 accessible for consultation with bureau staff in developing and responding
30 appropriately to bureau requests under this section.

31 (B) The bureau staff shall inform the ~~department~~ division
32 of any warehouse data used in the preparation of reports and provide the
33 ~~department~~ division at least one (1) working day to review any student-
34 related warehouse data used in preparation of reports prior to publicly
35 releasing that student-related data without individually identifiable
36 information.

1 (b) The ~~department~~ division shall provide other information and
2 records requested by the bureau as soon as possible and in whatever
3 reasonable form requested.

4
5 SECTION 2217. Arkansas Code § 10-3-1003 is amended to read as follows:

6 10-3-1003. Routine collaboration with ~~Department of Education~~ Division
7 of Elementary and Secondary Education, ~~Department~~ Division of Career and
8 Technical Education, and ~~Department~~ Division of Higher Education.

9 (a) The House Committee on Education and the Senate Committee on
10 Education between legislative sessions shall continually and routinely:

11 (1) Assess the needs and problems of:

12 (A) The public school districts of this state;

13 (B) Technical institutes and vocational-technical schools;

14 and

15 (C) Institutions of higher education; and

16 (2) Engage in a constant dialogue with the:

17 (A) ~~Department of Education~~ Division of Elementary and
18 Secondary Education;

19 (B) ~~Department~~ Division of Career and Technical Education;
20 and

21 (C) ~~Department~~ Division of Higher Education.

22 (b) In order to assist the General Assembly, the ~~Department of~~
23 Education Division of Elementary and Secondary Education, the ~~Department~~
24 Division of Career and Technical Education, and the ~~Department~~ Division of
25 Higher Education shall not only respond to the inquiries of the House
26 Committee on Education and the Senate Committee on Education, but shall of
27 their own motion alert the membership of the House Committee on Education and
28 the Senate Committee on Education to problems and needs of, and
29 recommendations concerning, all public education endeavors in Arkansas.

30
31 SECTION 2218. Arkansas Code § 10-3-1405(d), concerning
32 interdepartmental cooperation and assistance, is amended to read as follows:

33 (d)(1) The ~~Department of Education~~ Division of Elementary and
34 Secondary Education shall cooperate with and assist the office in carrying
35 out its responsibilities by providing:

36 (A) The office with information requested by the office;

1 and

2 (B) Assistance to the office as requested.

3 (2) The ~~Department of Education~~ Division of Elementary and
4 Secondary Education shall provide the office with any information regarding
5 changes in the calculation of state aid to public school districts within
6 seven (7) working days of a change.

7

8 SECTION 2219. Arkansas Code § 10-3-1602(2), concerning the duties of
9 the Joint Interim Oversight Committee on Education Reform, is amended to read
10 as follows:

11 (2) Reviewing policy issues affecting educational reform on or
12 before November 15 of the year preceding a regular session and making
13 recommendations concerning any necessary legislative changes proposed by
14 school districts, cooperatives, institutions of higher education, the
15 ~~Department of Education~~ Division of Elementary and Secondary Education, the
16 State Board of Education, the ~~Department~~ Division of Career and Technical
17 Education, the State Board of ~~Career~~ Education, the ~~Department~~ Division of
18 Higher Education, the Arkansas Higher Education Coordinating Board, the
19 Governor's office, and private institutions;

20

21 SECTION 2220. Arkansas Code § 10-3-1602(4), concerning the duties of
22 the Joint Interim Oversight Committee on Education Reform, is amended to read
23 as follows:

24 (4) Reviewing and assuring coordination between the school
25 districts, cooperatives, institutions of higher education, the ~~Department of~~
26 ~~Education~~ Division of Elementary and Secondary Education, the State Board of
27 Education, the ~~Department~~ Division of Career and Technical Education, ~~the~~
28 ~~State Board of Career Education,~~ the Career Education and Workforce
29 Development Board, the ~~Department~~ Division of Higher Education, the Arkansas
30 Higher Education Coordinating Board, the Governor's office, and private
31 institutions; and

32

33 SECTION 2221. Arkansas Code § 10-3-2102(a)(4), concerning duties of
34 the House Committee on Education and the Senate Committee on Education, is
35 amended to read as follows:

36 (4) Evaluate the effectiveness of any program implemented by a

1 school, a school district, an education service cooperative, the ~~Department~~
2 ~~of Education~~ Division of Elementary and Secondary Education, or the State
3 Board of Education and recommend necessary changes;

4
5 SECTION 2222. Arkansas Code § 10-3-2102(c), concerning duties of the
6 House Committee on Education and the Senate Committee on Education, is
7 amended to read as follows:

8 (c) The ~~Department of Education~~ Division of Elementary and Secondary
9 Education, the ~~Department~~ Division of Career and Technical Education, and the
10 ~~Department~~ Division of Higher Education shall provide the House Committee on
11 Education and the Senate Committee on Education with assistance and
12 information as requested by the House Committee on Education and the Senate
13 Committee on Education.

14
15 SECTION 2223. Arkansas Code § 10-3-2102(f)(2), concerning duties of
16 the House Committee on Education and the Senate Committee on Education, is
17 amended to read as follows:

18 (2) Reviewing the Arkansas academic standards developed by the
19 ~~Department of Education~~ Division of Elementary and Secondary Education;

20
21 SECTION 2224. Arkansas Code § 10-3-2103(a)(5) and (6), concerning the
22 authority to investigate by the House Committee on Education and the Senate
23 Committee on Educations, are amended to read as follows:

24 (5) The ~~Department of Education~~ Division of Elementary and
25 Secondary Education or its successors; or

26 (6) The State Board of Education or any ~~department~~ division
27 under the board's authority.

28
29 SECTION 2225. Arkansas Code § 10-3-2203(a), concerning assistance to
30 the Academic Facilities Oversight Committee, is amended to read as follows:

31 (a) The ~~Department of Education~~ Division of Elementary and Secondary
32 Education, the ~~Department~~ Division of Career and Technical Education, the
33 ~~Department~~ Division of Higher Education, the Division of Public School
34 Academic Facilities and Transportation, and the Division of Public School
35 Accountability shall provide the Academic Facilities Oversight Committee with
36 assistance as requested by the Academic Facilities Oversight Committee.

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SECTION 2226. Arkansas Code § 10-3-2602(b)(3), concerning the creation of the Arkansas Legislative Task Force on Autism, is amended to read as follows:

(3) One (1) member who is an employee of the Division of Medical Services of the Department of Human Services, appointed by the ~~Director~~ Secretary of the Department of Human Services;

SECTION 2227. Arkansas Code § 10-3-2602(b)(7), concerning the creation of the Arkansas Legislative Task Force on Autism, is amended to read as follows:

(7) The Behavior Intervention Coordinator of the ~~Department of Education~~ Division of Elementary and Secondary Education;

SECTION 2228. Arkansas Code § 10-3-2602(b)(12) and (13), concerning the creation of the Arkansas Legislative Task Force on Autism, are amended to read as follows:

(12) The Behavior Intervention Services Coordinator for the ~~Department of Education~~ Division of Elementary and Secondary Education;

(13) The Associate Director of Special Education of the ~~Department of Education~~ Division of Elementary and Secondary Education;

SECTION 2229. Arkansas Code § 11-10-220(b)(2), concerning educational institutions, is amended to read as follows:

(2) Which is approved, licensed, or issued a permit to operate as a school by the ~~Department of Education~~ Division of Elementary and Secondary Education or other government agency that is authorized within the state to approve, license, or issue a permit for the operation of a school;

SECTION 2230. Arkansas Code § 12-18-909(d)(2) and (3), concerning the availability of true reports of child maltreatment from the central registry, is amended to read as follows:

(2) However, the person or agency is permitted to consult his or her or its own attorney regarding information provided by the Department of Human Services and the ~~Department~~ Division of Arkansas State Police.

(3) However, a local educational agency or a school counselor

1 shall forward all true reports of child maltreatment received from the
2 Department of Human Services and the ~~Department~~ Division of Arkansas State
3 Police when a child transfers from one (1) local educational agency to
4 another and shall notify the Department of Human Services and the ~~Department~~
5 Division of Arkansas State Police of the child's new school and address, if
6 known.

7

8 SECTION 2231. Arkansas Code § 12-18-909(d)(5), concerning the
9 availability of true reports of child maltreatment from the central registry,
10 is amended to read as follows:

11 (5) This section does not prohibit the disclosure and discussion
12 of confidential data, records, reports, or documents created, collected, or
13 compiled by or on behalf of the Department of Human Services, the ~~Department~~
14 Division of Arkansas State Police, or other entity authorized under this
15 chapter to perform investigations or provide services to children,
16 individuals, or families in closed meetings conducted by the Child
17 Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.

18

19 SECTION 2232. Arkansas Code § 12-18-909(e)(1), concerning the
20 availability of true reports of child maltreatment from the central registry,
21 is amended to read as follows:

22 (e)(1) The Department of Human Services and the ~~Department~~ Division of
23 Arkansas State Police may provide information, including protected health
24 information, to a person or agency that provides services such as medical
25 examination of, an assessment interview with, or diagnosis of, care for,
26 treatment of, or supervision of a victim of child maltreatment, a juvenile
27 offender, or an underaged juvenile offender.

28

29 SECTION 2233. Arkansas Code § 12-18-909(g)(6)(A), concerning the
30 availability of true reports of child maltreatment from the central registry,
31 is amended to read as follows:

32 (6)(A) A person, agency, or organization engaged in a bona fide
33 research or evaluation project having value as determined by the Department
34 of Human Services and the ~~Department~~ Division of Arkansas State Police in
35 future planning for programs for maltreated children or in developing policy
36 directions.

1
2 SECTION 2234. Arkansas Code § 12-18-909(g)(23)(D), concerning the
3 availability of true reports of child maltreatment from the central registry,
4 is amended to read as follows:

5 (D) The ~~Department of Education~~ Division of Elementary and
6 Secondary Education;

7
8 SECTION 2235. Arkansas Code § 12-62-502(1), concerning the definition
9 of "approved institution" under the Arkansas National Guard Student Loan
10 Repayment Program, is amended to read as follows:

11 (1) "Approved institution" means an Arkansas public or private
12 postsecondary institution that is accredited or has achieved candidacy status
13 from the North Central Association's Commission on Institutions of Higher
14 Education or is a technical institute or comprehensive lifelong learning
15 center under the supervision of the ~~Department of Workforce Education~~
16 Division of Higher Education;

17
18 SECTION 2236. Arkansas Code § 12-62-502(4)(G), concerning the
19 definition of "approved institution" under the Arkansas National Guard
20 Student Loan Repayment Program, is amended to read as follows:

21 (G) Meets the current scholastic criteria of and is
22 currently approved to receive a student loan under any state or federal
23 program approved by the ~~Department~~ Division of Higher Education, and is, or
24 will be upon approval of such loan, enrolled as a full-time student in good
25 standing at an approved institution.

26
27 SECTION 2237. Arkansas Code § 12-62-505(b) and (c), concerning
28 regulations regarding the Arkansas National Guard Student Loan Repayment
29 Program, are amended to read as follows:

30 (b) In establishing regulations relating to academic qualification,
31 certification, recertification, and payment, the Adjutant General shall
32 obtain the advice of the ~~Department~~ Division of Higher Education.

33 (c) To the extent possible, the ~~department~~ division shall include the
34 program among other existing financial aid programs and shall monitor the
35 program and enforce policies, as necessary, to conform with ~~department~~
36 division regulations.

1
2 SECTION 2238. Arkansas Code § 13-2-203(b), concerning the creation of
3 the Arkansas State Library, is amended to read as follows:

4 (b) The library shall function within the ~~department~~ Department of
5 Education in the same manner as provided by agencies transferred ~~to the~~
6 ~~principal Department of government by a type 1 transfer under the provisions~~
7 ~~of § 25-2-104 pursuant to a cabinet-level transfer under § 25-43-105~~ and
8 which shall be adequately funded and properly housed in a designated building
9 at the seat of state government.

10
11 SECTION 2239. Arkansas Code § 13-2-204(a), concerning the
12 qualifications of the State Librarian, is amended to read as follows:

13 (a) The Arkansas State Library shall be headed by the State Librarian,
14 to be appointed by the State Library Board, in consultation with the
15 Secretary of the Department of Education. The State Librarian shall serve for
16 such time and for such terms as the board may prescribe.

17
18 SECTION 2240. Arkansas Code § 13-2-206(d), concerning meetings of the
19 State Library Board, is amended to read as follows:

20 (d) The State Librarian shall serve as ~~Executive Secretary~~ secretary
21 of the State Library Board, but without a vote thereon, and shall attend all
22 of the board meetings and keep records thereof.

23
24 SECTION 2241. Arkansas Code § 13-2-207(8), concerning the powers and
25 duties of the Arkansas State Library, is amended to read as follows:

26 (8) Cooperate with the ~~Department of Education~~ Division of
27 Elementary and Secondary Education and the ~~Department~~ Division of Higher
28 Education in devising plans for the development of libraries, in aiding
29 librarians in their administration, in certification policies, and in
30 formulating rules and regulations for the use of libraries;

31
32 SECTION 2242. Arkansas Code § 13-2-1002 is amended to read as follows:
33 13-2-1002. Creation.

34 (a)(1) The ~~Department~~ Division of Higher Education and the Arkansas
35 State Library shall develop a digitized collection of information that
36 includes information that is in the public domain, cleared for public

1 distribution over the Internet, and to which students of public postsecondary
2 schools in Arkansas have access.

3 (2) The digitized information under this subchapter shall be
4 available for public access in at least one (1) location in each Arkansas
5 county.

6 (b)(1) The ~~department~~ division and the library shall develop criteria
7 regarding the:

- 8 (A) Selection of materials to be digitized;
- 9 (B) Need for public access; and
- 10 (C) Means of cataloging or indexing the materials and
11 digitizing them.

12 (2) Materials to be digitized may include:

- 13 (A) Print documents;
- 14 (B) Texts;
- 15 (C) Manuscripts;
- 16 (D) Photographs;
- 17 (E) Art reproductions;
- 18 (F) Postcards;
- 19 (G) Illustrations;
- 20 (H) Sound;
- 21 (I) Film; and
- 22 (J) Video.

23 (c) The ~~department~~ division shall make grants under this subchapter to
24 assist public postsecondary institutions and other public or private entities
25 in:

- 26 (1) Selecting and digitizing information; and
- 27 (2) Developing and providing access to the digital collection in
28 at least one (1) location in each Arkansas county.

29 (d)(1) Each postsecondary public institution in Arkansas shall
30 cooperate with the ~~department~~ division in developing the digitized collection
31 under this subchapter.

32 (2) Each postsecondary public institution and any entity
33 receiving a grant under this subchapter shall develop a plan to inform the
34 public regarding the use of the resources made available under this
35 subchapter.

36 (3) Funds made available under this subchapter may be used by

1 the receiving entities to obtain matching funds from federal programs.

2
3 SECTION 2243. Arkansas Code § 14-14-904(b)(1)(B), concerning time and
4 place of the quorum court assembly, is amended to read as follows:

5 (B) The Director of the Assessment Coordination ~~Department~~
6 Division may authorize an extension of up to sixty (60) days of the date for
7 levy of taxes upon application by the county judge and county clerk of any
8 county for good cause shown resulting from reappraisal or rollback of taxes.

9
10 SECTION 2244. Arkansas Code § 14-14-904(b)(5), concerning time and
11 place of the quorum court assembly, is amended to read as follows:

12 (5) If a determination is made under this subchapter or § 26-80-
13 101 et seq. that the taxes levied by the quorum court are out of compliance
14 with Arkansas Constitution, Article 14, § 3, as amended by Arkansas
15 Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas
16 Constitution, Amendment 74, then upon notice from the Director of the
17 ~~Department of Education~~ Division of Elementary and Secondary Education, the
18 county court shall immediately issue an order directing the county clerk to
19 change the millage levy to bring the taxes levied into compliance with
20 Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution,
21 Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution,
22 Amendment 74.

23
24 SECTION 2245. Arkansas Code § 14-144-103(1), concerning the definition
25 of "accredited institution of higher education" under the Research Park
26 Authority Act, is amended to read as follows:

27 (1) "Accredited institution of higher education" means a four-
28 year public college or university that offers bachelor's degrees and is
29 recognized by the ~~Department~~ Division of Higher Education for credit;

30
31 SECTION 2246. Arkansas Code § 17-26-403(b)(2), concerning an
32 application to operate and license for a school of cosmetology, is amended to
33 read as follows:

34 (2) The ~~Department of Education~~ Division of Elementary and
35 Secondary Education shall not be required to apply to the Department of
36 Health for approval.

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SECTION 2247. Arkansas Code § 17-27-103(b)(1), concerning exemptions regarding a licensed professional counselor, is amended to read as follows:

(1) The professional pursuits of administrators, teachers, and school counselors certified by the ~~Department of Education~~ Division of Elementary and Secondary Education within the scope of their duties in recognized public and private schools;

SECTION 2248. Arkansas Code § 17-27-403(a)(1), concerning exemptions regarding licensed alcoholism and drug abuse counselors, is amended to read as follows:

(a)(1) Nothing contained in this subchapter shall be applicable to employees of the ~~Department of Education~~ Division of Elementary and Secondary Education or local boards of education who meet the certification as established or which may be established by the State Board of Education.

SECTION 2249. Arkansas Code § 17-53-106(a)(5), concerning the construction and applicability of the Health Educator Practice Act, is amended to read as follows:

(5) A teacher of health education in an elementary or secondary school who meets the certification requirements as set forth by the ~~Department of Education~~ Division of Elementary and Secondary Education;

SECTION 2250. Arkansas Code § 17-86-303(a)(4)(A), concerning licensing of a massage therapist, is amended to read as follows:

(4)(A) Present a high school diploma, high school equivalency diploma approved by the ~~Department of Career Education~~ Adult Education Section of the Division of Workforce Services, or college transcript and credentials issued by a massage therapy school accepted by the Department of Health or a like institution with no less than five hundred (500) hours of in-classroom instruction.

SECTION 2251. The introductory language of Arkansas Code § 17-87-402(b), concerning institutions of higher education, challenge examinations, and validation examinations, is amended to read as follows:

(b) The ~~Department~~ Division of Higher Education shall:

1
2 SECTION 2252. Arkansas Code § 17-87-402(c), concerning institutions of
3 higher education, challenge examinations, and validation examinations, is
4 amended to read as follows:

5 (c) All institutions of higher education in this state shall use
6 standardized validation and challenge examinations or devise their own. All
7 challenge examinations and all validation examinations shall be submitted to
8 the ~~department~~ division for its approval. Upon the successful passing of a
9 validation examination or challenge examination, the examinee shall be given
10 credit for the course which is the subject of the test.

11
12 SECTION 2253. Arkansas Code § 17-90-111(a), concerning loans to
13 optometry students, is amended to read as follows:

14 (a) The ~~Department~~ Division of Higher Education shall provide a loan
15 from the Higher Education Grants Fund Account that is in excess of the
16 Southern Regional Education Board grant funds to any optometry student:

17
18 SECTION 2254. Arkansas Code § 17-90-111(b)(2)(B), concerning loans to
19 optometry students, is amended to read as follows:

20 (B) At a rate of interest determined by the ~~department~~
21 division, but not to exceed four percent (4%);

22
23 SECTION 2255. Arkansas Code § 17-90-111(b)(4)(C), concerning loans to
24 optometry students, is amended to read as follows:

25 (C) Extraordinary circumstances as determined by the
26 ~~department~~ division; and

27
28 SECTION 2256. Arkansas Code § 17-91-101(a)(5), concerning the
29 licensing requirements of an osteopathic physician, is amended to read as
30 follows:

31 (5) Is a graduate of an osteopathic college of medicine whose
32 course of study has been recognized by the ~~Department of Education~~ Division
33 of Elementary and Secondary Education of the American Osteopathic
34 Association; and

35
36 SECTION 2257. Arkansas Code § 17-97-307(b)(4)(A), concerning

1 professional titles, is amended to read as follows:

2 (4)(A) Individuals who have been certified as school psychology
3 specialists by the ~~Department of Education~~ Division of Elementary and
4 Secondary Education shall be permitted to use the title "school psychology
5 specialist".

6
7 SECTION 2258. Arkansas Code § 17-100-104(4)(A), concerning exemptions
8 regarding the Licensure Act of Speech-Language Pathologists and Audiologists,
9 is amended to read as follows:

10 (4)(A) A person from performing speech-language pathology or
11 audiology services solely within the confines or under the jurisdiction of a
12 public school system if that person holds a valid and current certificate as
13 a speech therapist or speech-language pathologist issued by the ~~Department of~~
14 Education Division of Elementary and Secondary Education.

15
16 SECTION 2259. Arkansas Code § 19-1-701(b), concerning fiscal impact
17 statements, is amended to read as follows:

18 (b) A fiscal impact statement shall be developed with the guidance of
19 the Office of Economic and Tax Policy of the Bureau of Legislative Research
20 and with the approval of the ~~Department of Education~~ Division of Elementary
21 and Secondary Education.

22
23 SECTION 2260. The introductory language of Arkansas Code § 19-4-
24 604(d), concerning state-supported institutions of higher education, is
25 amended to read as follows:

26 (d) The Chief Fiscal Officer of the State, with the advice and consent
27 of the ~~Department~~ Division of Higher Education, shall approve requested
28 revisions in the proposed quarterly allotments if he or she shall determine
29 that:

30
31 SECTION 2261. The introductory language of Arkansas Code § 19-4-
32 604(i), concerning state-supported institutions of higher education, is
33 amended to read as follows:

34 (i) The ~~Department~~ Division of Higher Education shall coordinate with
35 the Chief Fiscal Officer of the State for administering the provisions of
36 this section.

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SECTION 2262. Arkansas Code § 19-4-1402 is amended to read as follows:
19-4-1402. Contracts to be filed.

(a) Executed counterparts of all contracts entered into by any state agency with respect to proposed projects for new improvements or major repairs or additions to existing buildings and facilities shall be approved by and filed with the Building Authority Division ~~of the Department of Finance and Administration~~ before the issuance of any vouchers making payments under the contract, unless the contract is exempted from the jurisdiction of the ~~division~~ Building Authority Division by a law or a regulation promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1) The boards of trustees of the University of Arkansas, Arkansas State University, University of Central Arkansas, Henderson State University, Arkansas Tech University, and Southern Arkansas University, respectively, are exempt from the requirements of this section requiring the filing of the contracts with the ~~division~~ Building Authority Division.

(2) The governing boards of all other public institutions of higher education shall be exempt from the requirement for approval and filing of the contracts with the ~~division~~ Building Authority Division:

(A) Upon approval of the ~~Department~~ Division of Higher Education; and

(B) If, prior to granting approval, the ~~Department~~ Division of Higher Education shall have reviewed and approved policies and procedures adopted by the governing boards of the public institutions of higher education with respect to bidding and construction of capital improvement projects.

(3) Nothing in this section shall prevent a public institution of higher education exempt under this subsection from entering into an agreement with the ~~division~~ Building Authority Division to file its contracts with the ~~division~~ Building Authority Division.

(c)(1) All contracts for new improvements or major repairs or additions to existing buildings and facilities under this subchapter shall include a project disclosure statement prepared by the agency, board, commission, or public institution of higher education.

(2) The disclosure statement shall provide the estimated

1 timeline, scope, and cost of the total project.

2 (3) The disclosure statement shall not be construed as
3 authorizing any:

4 (A) Additional work which is beyond the scope of the bid
5 documents; or

6 (B) Payment exceeding the contract amount.

7 (d) Nothing in this section shall prohibit any agency, board,
8 commission, or public institution of higher education from executing contract
9 amendments.

10

11 SECTION 2263. Arkansas Code § 19-4-1416(e), concerning job order
12 contracting, is amended to read as follows:

13 (e)(1) Executed counterparts of a contract entered into by a state
14 agency with respect to job order projects shall be approved by and filed with
15 the Building Authority Division ~~of the Department of Finance and~~
16 ~~Administration~~ before the issuance of any vouchers making payments under the
17 contract.

18 (2)(A) The boards of trustees of the University of Arkansas,
19 Arkansas State University, University of Central Arkansas, Henderson State
20 University, Arkansas Tech University, and Southern Arkansas University are
21 exempt from the requirements of this section regarding the approval and
22 filing of the contracts with the ~~division~~ Building Authority Division.

23 (B)(i) With the exception of those boards of trustees
24 listed in subdivision (e)(2)(A) of this section, the governing board of a
25 public institution of higher education is exempt from filing the contracts
26 with the ~~division~~ Building Authority Division if it receives the approval of
27 the ~~Department~~ Division of Higher Education.

28 (ii) Before granting approval, the ~~department~~
29 Division of Higher Education shall review and approve the policies and
30 procedures regarding bidding and construction of capital improvement projects
31 as adopted by the governing board of the public institution of higher
32 education.

33 (3) A public institution of higher education that is exempt
34 under this section may enter into an agreement with the ~~division~~ Building
35 Authority Division to file its contracts with the ~~division~~ Building Authority
36 Division.

1
2 SECTION 2264. The introductory language of Arkansas Code § 19-4-
3 1604(c), concerning receiving a salary from two agencies, is amended to read
4 as follows:

5 (c) A person drawing a salary or other compensation from a state
6 agency or institution of higher education shall not be paid a salary or
7 compensation from another institution of higher education except upon the
8 written certification to and approval by the Director of the ~~Department~~
9 Division of Higher Education that the:

10
11 SECTION 2265. Arkansas Code § 19-4-1808 is amended to read as follows:
12 19-4-1808. Federal funds for vocational schools.

13 Reimbursements of federal funds to the ~~Department~~ Division of Career
14 and Technical Education Fund Account shall be construed to be income of the
15 fiscal year in which the reimbursements were received.

16
17 SECTION 2266. Arkansas Code § 19-5-304 is amended to read as follows:
18 19-5-304. Education Fund.

19 The Education Fund shall consist of the following funds and fund
20 accounts made available for the support of the ~~Department of Education~~
21 Division of Elementary and Secondary Education ~~and the Department the~~
22 Division of Career and Technical Education, the Adult Education Section of
23 the Division of Workforce Services, and the Office of Skills Development, and
24 shall be used for the same purposes as set out for the following fund
25 accounts:

26 (1) ~~Department of Education~~ Division of Elementary and Secondary
27 Education Fund Account.

28 (A) The ~~Department of Education~~ Division of Elementary and
29 Secondary Education Fund Account shall be used to provide for the
30 maintenance, operation, and improvement of the ~~Department of Education~~
31 Division of Elementary and Secondary Education as created by § 6-10-101 et
32 seq., and any other laws imposing functions, powers, and duties upon the
33 State Board of Education, the ~~Department of Education~~ Division of Elementary
34 and Secondary Education, and the Commissioner of Elementary and Secondary
35 Education, including, but not necessarily limited to, history textbooks
36 expenses, the Publishing Revolving Account, audio-visual services, textbooks

1 operation, compact for education, including the state's membership, and the
2 state's contribution to the Southern Regional Education Board.

3 (B) The ~~Department of Education~~ Division of Elementary and
4 Secondary Education Fund Account shall consist of:

5 (i) Those general revenues as may be provided by the
6 Revenue Stabilization Law, § 19-5-101 et seq.; and

7 (ii) Nonrevenue income derived from services
8 provided by those programs supported from the ~~Department of Education~~
9 Division of Elementary and Secondary Education Fund Account, including any
10 rental property located on the State Capitol grounds owned by the ~~Department~~
11 of Education Division of Elementary and Secondary Education;

12 (2) ~~Department~~ Division of Career and Technical Education Fund
13 Account.

14 (A) The ~~Department~~ Division of Career and Technical
15 Education Fund Account shall be used to provide support for those programs
16 placed under the direction of the Director of the ~~Department~~ Division of
17 Career and Technical Education as authorized by §§ 6-11-101, 6-11-102, 25-6-
18 101, 25-6-102, and Acts 1981, No. 64, § 4, and any other laws imposing
19 functions, powers, and duties upon the ~~Career Education and Workforce~~
20 ~~Development Board~~ State Board of Education with respect to career and
21 technical education, including without limitation the following:

22 (i) Vocational, technical, and adult education;

23 (ii) Adult basic education;

24 (iii) Manpower training;

25 (iv) Vocational standards;

26 (v) Industry training programs; and

27 (vi) Those functions, programs, and responsibilities
28 transferred to the ~~Department~~ Division of Career and Technical Education, the
29 Adult Education Section of the Division of Workforce Services, and the Office
30 of Skills Development, as authorized by these statutes.

31 (B) The ~~Department~~ Division of Career and Technical
32 Education Fund Account shall consist of those general revenues as may be
33 provided by the Revenue Stabilization Law, § 19-5-101 et seq.;

34 (3) Educational Television Fund Account.

35 (A) The Educational Television Fund Account shall be used
36 for the maintenance, operation, and improvement required by the Educational

1 Television Division of the ~~Department of Education~~ Division of Elementary and
2 Secondary Education in carrying out those powers, functions, and duties of
3 the Arkansas Educational Television Commission as set out in § 6-3-101 et
4 seq. or other duties imposed by law upon the commission.

5 (B) The Educational Television Fund Account shall consist
6 of those general revenues as may be provided by law and nonrevenue income
7 derived from services provided by the Educational Television Division and any
8 other nonfederal grant funds provided by law;

9 (4) State Library Fund Account.

10 (A) The State Library Fund Account shall be used for the
11 maintenance, operation, and improvement required by the Library Division of
12 the Department of Education in carrying out the powers, functions, and duties
13 as set out in § 13-2-201 et seq. or any other duties imposed by law upon the
14 State Library Commission, which were transferred to the Department of
15 Education by §§ 6-11-101, 6-11-102, and 25-6-102.

16 (B) The State Library Fund Account shall consist of those
17 general revenues as may be provided by law and nonrevenue income derived from
18 services provided by the Library Division of the Department of Education and
19 any other nonfederal grant funds provided by law;

20 (5) School for the Blind Fund Account.

21 (A) The School for the Blind Fund Account shall be used
22 for the maintenance, operation, and improvement required by the Arkansas
23 School for the Blind in carrying out those powers, functions, and duties as
24 set out in § 6-43-101 et seq. and § 6-43-201 et seq.

25 (B) The School for the Blind Fund Account shall consist of
26 those general revenues as may be provided by law and nonrevenue income
27 derived from services provided by the Arkansas School for the Blind and any
28 other nonfederal grant funds provided by law.

29 (C) Federal reimbursement funds received on account of
30 vocational education programs conducted by the Arkansas School for the Blind
31 shall not be deposited into the School for the Blind Fund Account;

32 (6) School for the Deaf Fund Account.

33 (A) The School for the Deaf Fund Account shall be used for
34 the maintenance, operation, and improvement required by the Arkansas School
35 for the Deaf in carrying out the powers, functions, and duties as set out in
36 § 6-43-301 et seq. or other duties imposed by law upon the Arkansas School

1 for the Deaf, which were transferred to the Department of Education by §§ 6-
2 11-101, 6-11-102, and 25-6-102.

3 (B) The School for the Deaf Fund Account shall consist of
4 those general revenues as may be provided by law and nonrevenue income
5 derived from services provided by the Arkansas School for the Deaf and any
6 other nonfederal grant funds provided by law.

7 (C) Federal reimbursement funds received on account of
8 vocational education programs conducted by the Arkansas School for the Deaf
9 shall not be deposited into the School for the Deaf Fund Account;

10 (7) Rehabilitation Services Fund Account.

11 (A) The Rehabilitation Services Fund Account shall be used
12 for the maintenance, operation, and improvement required by the Arkansas
13 Rehabilitation Services of the ~~Department of Career Education~~ Division of
14 Workforce Services in carrying out the powers, functions, and duties as set
15 out in § 6-52-101 et seq., the Rehabilitation Act of Arkansas, § 20-79-201 et
16 seq., and § 25-30-201 et seq., and for the adult handicapped program at the
17 Arkansas Health Center.

18 (B) The Rehabilitation Services Fund Account shall consist
19 of:

20 (i) Those general revenues as may be provided by
21 law;

22 (ii) Nonrevenue income derived from services
23 provided by rehabilitation programs of the Arkansas Rehabilitation Services
24 of the ~~Department of Career Education~~ Division of Workforce Services; and

25 (iii) Any other nonfederal grant funds provided by
26 law;

27 (8) Technical Institute and Other Education Fund Accounts.

28 (A) The Crowley's Ridge Technical Institute Fund Account
29 shall be used for the maintenance, operation, and improvement of Crowley's
30 Ridge Technical Institute. The Crowley's Ridge Technical Institute Fund
31 Account shall consist of:

32 (i) Those general revenues as may be provided by
33 law; and

34 (ii) Any other funds made available for the support
35 of Crowley's Ridge Technical Institute which are required to be deposited
36 into the State Treasury by law.

1 (B) The Northwest Technical Institute Fund Account shall
2 be used for the maintenance, operation, and improvement of Northwest
3 Technical Institute. The Northwest Technical Institute Fund Account shall
4 consist of:

5 (i) Those general revenues as may be provided by
6 law; and

7 (ii) Any other funds made available for the support
8 of Northwest Technical Institute which are required to be deposited into the
9 State Treasury by law.

10 (C) The Riverside Vocational Technical School Fund Account
11 shall be used for the maintenance, operation, and improvement of Riverside
12 Vocational and Technical School. The Riverside Vocational Technical School
13 Fund Account shall consist of:

14 (i) Those general revenues as may be provided by
15 law; and

16 (ii) Any other funds made available for the support
17 of Riverside Vocational Technical School which are required to be deposited
18 into the State Treasury by law;

19 (9) Educational Facilities Partnership Fund Account.

20 (A) The Educational Facilities Partnership Fund Account
21 shall be used for distribution of grants for programs providing academic
22 school facility and transportation assistance to the public school districts
23 as may be provided by law.

24 (B) The Educational Facilities Partnership Fund Account
25 shall consist of:

26 (i) Those general revenues as may be provided by
27 law;

28 (ii) Moneys transferred from the General Improvement
29 Fund; and

30 (iii) Any other moneys as may be provided by law;
31 and

32 (10) Division of Public School Academic Facilities and
33 Transportation Fund Account.

34 (A) The Division of Public School Academic Facilities and
35 Transportation Fund Account shall be used for the maintenance, operation, and
36 improvement required by the Division of Public School Academic Facilities and

1 Transportation of the ~~Department of Education~~ Division of Elementary and
2 Secondary Education as may be provided by law.

3 (B) The Division of Public School Academic Facilities and
4 Transportation Fund Account shall consist of:

5 (i) Those general revenues as may be provided by
6 law; and

7 (ii) Any other funds made available for the support
8 of the Division of Public School Academic Facilities and Transportation of
9 the ~~Department of Education~~ Division of Elementary and Secondary Education.

10
11 SECTION 2267. Arkansas Code § 19-5-305 is amended to read as follows:
12 19-5-305. Public School Fund.

13 (a) The Public School Fund shall consist of the following fund
14 accounts and funds made available for the support of the ~~Department of~~
15 ~~Education~~ Division of Elementary and Secondary Education, the Arkansas State
16 Library of the ~~Department of Education~~ Division of Elementary and Secondary
17 Education, and the ~~Department~~ Division of Career and Technical Education and
18 shall be used for the same purposes as set out for the following fund
19 accounts:

20 (1) ~~Department of Education~~ Division of Elementary and Secondary
21 Education Public School Fund Account. The ~~Department of Education~~ Division
22 of Elementary and Secondary Education Public School Fund Account shall be
23 used for grants and aids for the programs administered by the ~~Department of~~
24 ~~Education~~ Division of Elementary and Secondary Education as authorized by
25 law;

26 (2) ~~Department~~ Division of Career and Technical Education Public
27 School Fund Account. The ~~Department~~ Division of Career and Technical
28 Education Public School Fund Account shall be used for grants and aids for
29 the programs administered by the ~~Department~~ Division of Career and Technical
30 Education, Adult Education Section of the Division of Workforce Services,
31 Office of Skills Development, consisting of, but not limited to:

32 (A) General adult education grants;

33 (B) Adult basic education grants;

34 (C) Manpower development and training grants;

35 (D) Vocational-technical and adult education; and

36 (E) Such other grants and aids as may be authorized by law

1 for disbursement by the ~~Department~~ Division of Career and Technical
2 Education, Adult Education Section of the Division of Workforce Services,
3 Office of Skills Development; and

4 (3) State Library Public School Fund Account. The State Library
5 Public School Fund Account shall be used for State Aid to Public Libraries as
6 administered by the Arkansas State Library of the ~~Department of Education~~
7 Division of Elementary and Secondary Education.

8 (b) The Public School Fund shall consist of those moneys as may be
9 provided by:

10 (1) The Revenue Stabilization Law, § 19-5-101 et seq.;

11 (2) Any federal mineral leasing funds, federal forest reserve
12 funds, federal flood control funds, or any other similar turnback funds in
13 the State Treasury for which the eligible county or school district cannot be
14 identified;

15 (3) Fines collected pursuant to § 6-21-410 under the Free
16 Textbook Act of 1975, § 6-21-401 et seq.;

17 (4) Funds remitted by county treasurers for those school
18 districts which have local revenue per student in excess of the local base
19 per student, as set out in § 26-80-101(c);

20 (5) Amusement machine revenues up to and including thirty
21 thousand dollars (\$30,000), as set out in § 26-57-407;

22 (6) Twenty-five percent (25%) of additional rental vehicle tax
23 revenues under § 26-63-302, to be used exclusively for teacher salaries; and

24 (7) Such other funds as may be authorized by law.

25 (c)(1) There is authorized a transfer of up to two hundred thousand
26 dollars (\$200,000) per year from the Public School Fund to the ~~Department of~~
27 Education Division of Elementary and Secondary Education Fund Account or the
28 ~~Department~~ Division of Career and Technical Education Fund Account, or a
29 portion thereof to both, by the Treasurer of State and the Chief Fiscal
30 Officer of the State, upon certification as to the amount required by the
31 Commissioner of Elementary and Secondary Education or by the Director of the
32 ~~Department~~ Division of Career and Technical Education, or both, to the Chief
33 Fiscal Officer of the State.

34 (2) This transfer shall be used to provide additional support
35 for the administration of the handicapped children program and the
36 vocational-technical and adult education program.

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SECTION 2268. The introductory language of Arkansas Code § 19-5-501(b)(1)(E), concerning the Budget Stabilization Trust Fund, is amended to read as follows:

(E) Temporary loans may be made to the institutions of higher education for operational purposes. In making these loans, the following procedures shall be applicable. The institutions of higher education shall submit requests for loans to both the Director of the ~~Department~~ Division of Higher Education and the Chief Fiscal Officer of the State setting forth the need for the loan. The requests shall include at least the following:

SECTION 2269. Arkansas Code § 19-5-501(b)(1)(F), concerning the Budget Stabilization Trust Fund, is amended to read as follows:

(F) The Chief Fiscal Officer of the State and the Director of the ~~Department~~ Division of Higher Education shall review the request for the loan. The Director of the ~~Department~~ Division of Higher Education shall recommend, in writing, the approval or disapproval of the loan and the reasons for the recommendation to the Chief Fiscal Officer of the State. The Chief Fiscal Officer of the State shall review the institution's request, the funds available in the Budget Stabilization Trust Fund, and the recommendation of the Director of the ~~Department~~ Division of Higher Education. The Chief Fiscal Officer of the State may request such additional information as is deemed necessary to make a determination as to whether the request should be approved. If the Chief Fiscal Officer of the State determines that the request is proper and necessary for the operation of the institution and that sufficient funds are available, the Chief Fiscal Officer of the State shall approve the request and establish a repayment schedule for the loan. If the Chief Fiscal Officer of the State determines that the loan is not necessary or required, or that funds are not available, the Chief Fiscal Officer of the State shall deny the request. The Chief Fiscal Officer of the State shall communicate in writing to the institution and to the Director of the ~~Department~~ Division of Higher Education the reasons for disapproval of the requested loan. All loans made to the institutions of higher education under the provisions of this section shall be repaid in full by June 30 of the fiscal year in which the loan was made. In the event an

1 agency or program is established by the General Assembly which is to be
2 supported solely from other than general revenues or federal funds, the Chief
3 Fiscal Officer of the State may make a temporary loan from the Budget
4 Stabilization Trust Fund to the agency or program to the extent necessary for
5 carrying out the intent of the enabling legislation. The amount of the loan
6 shall be determined by the Chief Fiscal Officer of the State, and the loans
7 shall be repaid in full by June 30 of the fiscal year in which the loan was
8 made;

9
10 SECTION 2270. Arkansas Code § 19-5-501(b)(3), concerning the Budget
11 Stabilization Trust Fund, is amended to read as follows:

12 (3) Making transfers to the ~~State Military Department~~ Department
13 of the Military Fund Account of the State General Government Fund as
14 established in § 19-5-302(2)(A)-(C) for the purpose of providing
15 reimbursement or immediate funding for expenses incurred by the ~~State~~
16 ~~Military Department~~ Department of the Military on behalf of the Arkansas
17 National Guard emergency call-up appropriation;

18
19 SECTION 2271. Arkansas Code § 19-5-502(c), concerning loans from the
20 Budget Stabilization Trust Fund, is amended to read as follows:

21 (c) The ~~Department of Education~~ Division of Elementary and Secondary
22 Education shall have no authority to request loans from the Budget
23 Stabilization Trust Fund to provide moneys for distribution to public school
24 districts in this state, nor to write warrants payable from any funds
25 borrowed from the Budget Stabilization Trust Fund, for making monthly
26 payments to school districts in this state earlier than the fifth day prior
27 to the end of the month.

28
29 SECTION 2272. Arkansas Code § 19-5-907(b), concerning the Revolving
30 Loan Fund, is amended to read as follows:

31 (b) The fund shall consist of the repayment of moneys loaned or
32 invested through the Revolving Loan Program of the ~~Department of Education~~
33 Division of Elementary and Secondary Education.

34
35 SECTION 2273. Arkansas Code § 19-5-960(b), concerning the Private
36 Career School Student Protection Trust Fund, is amended to read as follows:

1 (b) The fund shall consist of a fee to be set by the ~~Department~~
2 Division of Higher Education in consultation with the State Board of Private
3 Career Education as provided in § 6-51-607, there to be used for paying
4 claims and other expenses as set out in § 6-51-607.

5
6 SECTION 2274. Arkansas Code § 19-5-1004(c), concerning the General
7 Revenue Allotment Reserve Fund, is amended to read as follows:

8 (c) Any funds that remain in the ~~Department~~ Division of Career and
9 Technical Education Fund Account or the fund accounts created in § 19-5-
10 304(8) at the end of a fiscal year due to the provisions of this section
11 shall be transferred by the Chief Fiscal Officer of the State to the General
12 Improvement Fund or its successor fund or fund accounts, there to be used
13 exclusively to provide additional funding for appropriations for the
14 applicable vocational and technical schools, technical institutes, or
15 comprehensive lifelong learning centers, that are made payable from the
16 General Improvement Fund or its successor fund or fund accounts.

17
18 SECTION 2275. Arkansas Code § 19-5-1018(d), concerning the creation of
19 the Higher Education Building Maintenance Fund, is amended to read as
20 follows:

21 (d) Those funds accruing to the Higher Education Building Maintenance
22 Fund under the provisions of this section shall be disbursed by the Director
23 of the ~~Department~~ Division of Higher Education in accordance with the
24 recommendations of the Arkansas Higher Education Coordinating Board, but only
25 after the board shall determine the projects and priorities for which the
26 funds shall be used, and after the board shall have sought the advice of the
27 Legislative Council with respect to them.

28
29 SECTION 2276. Arkansas Code § 19-5-1036(b), concerning the Research
30 Development Fund, is amended to read as follows:

31 (b) The Research Development Fund shall consist of funds transferred
32 from the Higher Education Building Maintenance Fund and any other moneys
33 provided by the General Assembly, there to be used for the administration and
34 operations of the Arkansas Research Development Program of the ~~Department~~
35 Division of Higher Education, as set out in the Arkansas Research Development
36 Act, § 6-61-801 et seq.

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SECTION 2277. Arkansas Code § 19-5-1076(c)(2) and (3), concerning the intent of the Higher Education Tuition Adjustment Fund, are amended to read as follows:

(2) Further, the ~~Department~~ Division of Higher Education will require each institution to track and report the number of qualifying students each year.

(3) A list of students who benefit from the out-of-state tuition waiver, including their Social Security number or their Arkansas taxpaying parents' or guardians' names and Social Security numbers, will be furnished by the ~~Department~~ Division of Higher Education to the Department of Finance and Administration for confirmation that they or their parents are employed in Arkansas at a wage in excess of five thousand five hundred dollars (\$5,500) per annum.

SECTION 2278. Arkansas Code § 19-5-1076(d), concerning the Higher Education Tuition Adjustment Fund, is amended to read as follows:

(d)(1) The Director of the ~~Department~~ Division of Higher Education shall determine the difference between the amount of tuition revenue which would have been generated by charging the Arkansas Higher Education Coordinating Board-approved out-of-state tuition rate to said students as compared to approved in-state or out-of-district rates.

(2) Upon such determination, the Director of the ~~Department~~ Division of Higher Education shall certify to the Chief Fiscal Officer of the State and the Treasurer of State such amounts as are required to be transferred from the Higher Education Tuition Adjustment Fund.

(3) Upon receiving such certification, the Chief Fiscal Officer of the State and the Treasurer of State shall cause to be transferred the necessary funds and appropriation to the fund account of the institution receiving such certification from the Director of the ~~Department~~ Division of Higher Education.

SECTION 2279. Arkansas Code § 19-5-1114(b)(2), concerning the Arkansas Construction Industry Craft Training Trust Fund, is amended to read as follows:

(2) The fund shall be used to support training programs set out

1 in the Arkansas Construction Industry Craft Training Act, § 6-55-101 et seq.,
2 administered by the ~~Department of Career Education~~ Office of Skills
3 Development and the State Apprenticeship Coordination Steering Committee.
4

5 SECTION 2280. Arkansas Code § 19-5-1227(c) and (d), concerning the
6 Educational Adequacy Fund, are amended to read as follows:

7 (c)(1) The Chief Fiscal Officer of the State will determine, from time
8 to time, the amount of funds required from the Educational Adequacy Fund
9 which, when added to other resources available to the ~~Department of Education~~
10 Division of Elementary and Secondary Education Public School Fund Account of
11 the Public School Fund and the ~~Department of Education~~ Division of Elementary
12 and Secondary Education Fund Account of the Education Fund, is needed to
13 fulfill the financial obligation of the state to provide an adequate
14 educational system as authorized by law and shall certify the amounts to the
15 Treasurer of State.

16 (2) At the end of each month, the Treasurer of State shall
17 transfer all moneys available from the Educational Adequacy Fund to the
18 ~~Department of Education~~ Division of Elementary and Secondary Education Public
19 School Fund Account of the Public School Fund and to the ~~Department of~~
20 ~~Education~~ Division of Elementary and Secondary Education Fund Account of the
21 Education Fund until the sum of all transfers from the Educational Adequacy
22 Fund equals the amounts determined in subdivision (c)(1) of this section,
23 there to be used as determined by law.

24 (d) In the event the Chief Fiscal Officer of the State determines that
25 the transfers from the Educational Adequacy Fund, when added to the other
26 resources available to the ~~Department of Education~~ Division of Elementary and
27 Secondary Education Public School Fund Account of the Public School Fund, are
28 not sufficient to meet the state's financial obligation to provide an
29 adequate educational system as authorized by law, the additional amount
30 required shall be transferred from the other funds and fund accounts, except
31 the Educational Facilities Partnership Fund Account, within §§ 19-5-402 and
32 19-5-404(a) [repealed] based upon the proportion that each of the remaining
33 fund and fund accounts, excluding the Educational Facilities Partnership Fund
34 Account, bears to the total of the remaining funds and fund accounts in §§
35 19-5-402 and 19-5-404(a) [repealed].
36

1 SECTION 2281. Arkansas Code § 19-5-1257(c), concerning the Workforce
2 Initiative Act of 2015 Fund, is amended to read as follows:

3 (c) The fund shall be used by the ~~Department~~ Division of Higher
4 Education for distributing grants to programs identified under § 6-60-107.

5
6 SECTION 2282. Arkansas Code § 19-6-462 is amended to read as follows:
7 19-6-462. Private Career Education Fund.

8 The Private Career Education Fund shall consist of those special
9 revenues as specified in § 19-6-301(24), there to be used for the maintenance
10 and operations of the ~~Department~~ Division of Higher Education concerning the
11 State Board of Private Career Education in carrying out the functions,
12 powers, and duties as set out in § 6-51-601 et seq.

13
14 SECTION 2283. Arkansas Code § 19-7-103(b)(1) and (2), concerning the
15 control of college study programs and basic educational grants, are amended
16 to read as follows:

17 (b)(1) The ~~Department of Education~~ Division of Elementary and
18 Secondary Education shall issue rules for the purpose of administering the
19 funds received for college work-study programs and basic educational
20 opportunity grants for the vocational-technical schools.

21 (2) The ~~Department~~ Division of Higher Education shall issue
22 rules for the purpose of administering the funds received by state colleges
23 and universities.

24
25 SECTION 2284. Arkansas Code § 19-11-1004(c)(3)(A), concerning the
26 restrictions on contracts, is amended to read as follows:

27 (A) The institution of higher education requests and
28 receives written approval from the Director of the ~~Department~~ Division of
29 Higher Education concerning the amount of additional compensation to be paid
30 to any employee; and

31
32 SECTION 2285. Arkansas Code § 20-7-134(c), concerning the powers and
33 duties of the Child Health Advisory Committee, is amended to read as follows:

34 (c) The committee shall examine the progress of the Arkansas
35 Coordinated School Health Program and make recommendations to the ~~Department~~
36 of Education Division of Elementary and Secondary Education and the

1 Department of Health concerning the implementation of the Arkansas
2 Coordinated School Health Program.

3

4 SECTION 2286. The introductory language of Arkansas Code § 20-7-
5 135(b), concerning the implementation of nutrition and physical activity
6 standards, is amended to read as follows:

7 (b) The Department of Health in consultation with the ~~Department of~~
8 ~~Education~~ Division of Elementary and Secondary Education shall:

9

10 SECTION 2287. Arkansas Code § 20-7-135(b)(2), concerning the
11 implementation of nutrition and physical activity standards, is amended to
12 read as follows:

13 (2) Employ one (1) statewide health promotion consultant to be
14 housed within the ~~Department of Education~~ Division of Elementary and
15 Secondary Education if funds are available;

16

17 SECTION 2288. The introductory language of Arkansas Code § 20-7-
18 135(d), concerning the implementation of nutrition and physical activity
19 standards, is amended to read as follows:

20 (d) The ~~Department of Education~~ Division of Elementary and Secondary
21 Education shall:

22

23 SECTION 2289. Arkansas Code § 20-7-135(d)(1), concerning the
24 implementation of nutrition and physical activity standards, is amended to
25 read as follows:

26 (1) Begin the implementation of standards developed by the
27 ~~committee~~ Child Health Advisory Committee and approved by the ~~Department of~~
28 ~~Education~~ Division of Elementary and Secondary Education; and

29

30 SECTION 2290. Arkansas Code § 20-7-135(e)(1)(B)(i), concerning the
31 implementation of nutrition and physical activity standards, is amended to
32 read as follows:

33 (i) Assisting with the implementation of nutrition
34 and physical activity standards developed by the school nutrition and
35 physical activity advisory committee with the approval of the ~~Department of~~
36 ~~Education~~ Division of Elementary and Secondary Education and the State Board

1 of Health;

2

3 SECTION 2291. Arkansas Code § 20-7-135(e)(2), concerning the
4 implementation of nutrition and physical activity standards, is amended to
5 read as follows:

6 (2) Begin the implementation of standards developed by the
7 ~~committee~~ Child Health Advisory Committee with the approval of the ~~Department~~
8 ~~of Education~~ Division of Elementary and Secondary Education and the State
9 Board of Health; and

10

11 SECTION 2292. The introductory language of Arkansas Code § 20-7-
12 135(f)(1), concerning the implementation of nutrition and physical activity
13 standards, is amended to read as follows:

14 (f)(1) The ~~Department of Education~~ Division of Elementary and
15 Secondary Education and the Department of Health shall report annually on
16 progress in implementing nutrition and physical education standards to the:

17

18 SECTION 2293. Arkansas Code § 20-15-902 is amended to read as follows:
19 20-15-902. Counseling – Seminars.

20 The ~~Department of Education~~ Division of Elementary and Secondary
21 Education, the University of Arkansas for Medical Sciences, and the
22 Department of Health shall jointly provide counseling and shall also conduct
23 public seminars designed to educate the public regarding acquired immune
24 deficiency syndrome (AIDS).

25

26 SECTION 2294. Arkansas Code § 20-15-1106 is amended to read as
27 follows:

28 20-15-1106. Coordination of services.

29 The Department of Health, the ~~Department of Education~~ Division of
30 Elementary and Secondary Education, and the Department of Human Services
31 shall work cooperatively and develop a plan to coordinate early educational
32 and rehabilitative services for newborn infants identified as hearing
33 impaired.

34

35 SECTION 2295. Arkansas Code § 20-27-1501(3)(D), concerning body
36 piercing, branding, and tattooing, is amended to read as follows:

1 (D) Is a registered instructor for the specified field of
2 body art with the ~~Department~~ Division of Higher Education;

3
4 SECTION 2296. Arkansas Code § 20-27-1503(a)(2), concerning the powers
5 of the Department of Health to license, regulate, and inspect for health
6 hazards, is amended to read as follows:

7 (2) A body art training facility shall be licensed by the
8 Department of Health as an establishment and by the ~~Department~~ Division of
9 Higher Education as an approved body art training facility.

10
11 SECTION 2297. Arkansas Code § 20-27-1507(a) and (b), concerning the
12 education of an artist in training, are amended to read as follows:

13 (a) An artist trainer shall be a registered instructor in a school
14 licensed by the ~~Department~~ Division of Higher Education under § 6-51-601 et
15 seq.

16 (b) In consultation with the State Board of Private Career Education,
17 the ~~Department~~ Division of Higher Education shall develop standards to
18 determine:

19 (1) The maximum number of artists in training in a training
20 facility at one time; and

21 (2) The length of the program in hours and across a range of
22 months.

23
24 SECTION 2298. Arkansas Code § 20-27-1507(c)(2)(A), concerning the
25 education of an artist in training, is amended to read as follows:

26 (2)(A) The artist trainer shall maintain a training log of the
27 clock hours completed by the artist in training on forms approved by the
28 ~~Department~~ Division of Higher Education.

29
30 SECTION 2299. Arkansas Code § 20-27-1507(e), concerning the education
31 of an artist in training, is amended to read as follows:

32 (e) The ~~Department~~ Division of Higher Education shall adopt a minimum
33 curriculum for each area of body art training that shall be followed by all
34 artist trainers, artists in training, and body art training facilities.

35
36 SECTION 2300. Arkansas Code § 20-45-302(c)(3), concerning the creation

1 and purpose of the Arkansas Suicide Prevention Council, is amended to read as
2 follows:

3 (3) A representative of the ~~Department of Education~~ Division of
4 Elementary and Secondary Education, to be designated by the Commissioner of
5 Elementary and Secondary Education;

6
7 SECTION 2301. Arkansas Code § 20-45-302(c)(6) and (7), concerning the
8 creation and purpose of the Arkansas Suicide Prevention Council, are amended
9 to read as follows:

10 (6) A representative of law enforcement, to be designated by the
11 Director of the ~~Department~~ Division of Arkansas State Police;

12 (7) A representative from higher education, to be designated by
13 the Director of the ~~Department~~ Division of Higher Education;

14

15 SECTION 2302. The introductory language of Arkansas Code § 20-47-
16 505(a)(2), concerning the creation of the Child and Adolescent Service System
17 Program Coordinating Council, is amended to read as follows:

18 (2) The council shall include the following persons to be
19 selected and appointed by the Commissioner of Elementary and Secondary
20 Education and the ~~Director~~ Secretary of the Department of Human Services:

21

22 SECTION 2303. Arkansas Code § 20-47-505(a)(2)(E)(i), concerning the
23 creation of the Child and Adolescent Service System Program Coordinating
24 Council, is amended to read as follows:

25 (E)(i) One (1) or more representatives from specific
26 divisions or agencies in the Department of Human Services and the ~~Department~~
27 ~~of Education~~ Division of Elementary and Secondary Education.

28

29 SECTION 2304. Arkansas Code § 20-47-508(e), concerning the evaluation
30 and treatment of children suspected of having emotional disturbances, is
31 amended to read as follows:

32 (e) If after screening and assessment or collaborative evaluations it
33 is determined that a child with emotional disturbance needs multiagency
34 services, then initial and subsequent individualized multiagency service
35 plans for the child and the child's family shall be jointly developed by the
36 appropriate local or regional representatives of the community mental health

1 centers, of the Department of Human Services county office, of the Department
2 of Health, of the Special Education Section of the ~~Department of Education~~
3 Division of Elementary and Secondary Education, of the local school district,
4 and of any other service provider identified to meet the needs of the child
5 and his or her family. The individualized service plan shall reflect an
6 integrated service delivery that specifies services or programs with funding
7 to be provided by each agency. The service plan shall also designate
8 responsibility for case management.

9
10 SECTION 2305. Arkansas Code § 20-64-704(3), concerning the powers and
11 duties of the Division of Aging, Adult, and Behavioral Health Services of the
12 Department of Human Services, is amended to read as follows:

13 (3) Promote or conduct educational programs on alcoholism,
14 purchase and provide books, films, and other educational material, furnish
15 funds or grants to the ~~Department of Education~~ Division of Elementary and
16 Secondary Education, institutions of higher education, and medical schools
17 for study and research, and modernize instruction regarding the problems of
18 alcoholism;

19
20 SECTION 2306. The introductory language of Arkansas Code § 20-64-
21 704(5), concerning the powers and duties of the Division of Aging, Adult, and
22 Behavioral Health Services, is amended to read as follows:

23 (5) While the ~~division~~ Division of Aging, Adult, and Behavioral
24 Health Services of the Department of Human Services necessarily must, and
25 does, have discretion as to proportions in which it allocates funds to the
26 various aspects of this problem, it is contemplated and intended that the
27 ~~division~~ Division of Aging, Adult, and Behavioral Health Services of the
28 Department of Human Services shall make every reasonable effort not to
29 concentrate too largely on any one (1) phase of the problem at the expense or
30 to the detriment of other phases. For example, but not limited to, the
31 following phases:

32
33 SECTION 2307. Arkansas Code § 20-76-112 is amended to read as follows:
34 20-76-112. Human Services Workers in the Schools Program.

35 (a) The Human Services Workers in the Schools Program is established
36 as a collaborative effort among the Division of Children and Family Services

1 of the Department of Human Services, the Arkansas Workforce Development
2 Board, the ~~Department of Education~~ Division of Elementary and Secondary
3 Education, and local school districts. The Human Services Workers in the
4 Schools Program is designed to help children and families by:

5 (1) Promoting safety of children and strengthening of families;

6 (2) Supporting the community's capacity to produce children who
7 are healthy, children who are in supportive, nurturing, and healthy families,
8 and children who succeed in school; and

9 (3) Promoting the ~~division's~~ Division of Children and Family
10 Services' family preservation philosophy and family-centered practice.

11 (b) Upon approval of the board, the ~~division~~ Division of Children and
12 Family Services shall enter into contracts with local school districts to
13 provide funding for the maximum number of human services workers.

14 (c) A human services worker shall have a bachelor's degree or a
15 master's degree in social work or a related field and shall provide the
16 following services according to skills and training:

17 (1) Crisis intervention;

18 (2) School conferences and in-service training;

19 (3) Home visits;

20 (4) Transportation for family and student group counseling;

21 (5) Parent training and activities;

22 (6) Supportive service referrals;

23 (7) Individualized coping and conflict management skills; and

24 (8) Assessment of family and student needs.

25 (d)(1) Funding for human services workers shall be targeted to schools
26 with eighty percent (80%) or more of their children eligible for the Free and
27 Reduced Lunch Program under the National School Lunch Act, 42 U.S.C. § 1751
28 et seq.

29 (2) The ~~Department of Education~~ Division of Elementary and
30 Secondary Education and the ~~division~~ Division of Children and Family Services
31 shall develop criteria to prioritize eligibility for the Human Services
32 Workers in the Schools Program.

33 (e) The Coordinated Health Services Section of the ~~Department of~~
34 Education Division of Elementary and Secondary Education shall evaluate the
35 Human Services Workers in the Schools Program annually in coordination with
36 the ~~division~~ Division of Children and Family Services, the board, and the

1 local school districts that hold contracts.

2 (f) A parent or a student has the option to refuse any services
3 recommended under the Human Services Workers in the Schools Program.

4
5 SECTION 2308. Arkansas Code § 20-77-1604(c)(1)(A), concerning the
6 creation of the Arkansas Youth Suicide Prevention Task Force, is amended to
7 read as follows:

8 (c)(1)(A) The Governor shall consult the ~~Department of Education~~
9 Division of Elementary and Secondary Education before appointing a student
10 member.

11
12 SECTION 2309. Arkansas Code § 20-77-1606(a)(2), concerning the
13 Arkansas Youth Suicide Prevention Task Force meetings, is amended to read as
14 follows:

15 (2) The Commissioner of Elementary and Secondary Education shall
16 call the first meeting of the task force no later than thirty (30) days after
17 all of the members are appointed to the task force.

18
19 SECTION 2310. Arkansas Code § 20-77-1606(e)(1), concerning the
20 Arkansas Youth Suicide Prevention Task Force meetings, is amended to read as
21 follows:

22 (e)(1) The ~~Department of Education~~ Division of Elementary and
23 Secondary Education shall provide staff and office space to the task force.

24
25 SECTION 2311. The introductory language of Arkansas Code § 20-78-
26 205(a), concerning the creation of the Division of Child Care and Early
27 Childhood Education, is amended to read as follows:

28 (a) There is created the Division of Child Care and Early Childhood
29 Education within the Department of Human Services. In creating the ~~division~~
30 Division of Child Care and Early Childhood Education, the General Assembly
31 intends for the following to be maintained and enhanced:

32
33 SECTION 2312. The introductory language of Arkansas Code § 20-78-
34 205(b), concerning the creation of the Division of Child Care and Early
35 Childhood Education, is amended to read as follows:

36 (b) The ~~division~~ Division of Child Care and Early Childhood Education

1 shall have the following duties:

2

3 SECTION 2313. Arkansas Code § 20-78-205(b)(2), concerning the creation
4 of the Division of Child Care and Early Childhood Education, is amended to
5 read as follows:

6 (2) Administration of the Arkansas Better Chance Program, under
7 interagency agreement with the ~~Department of Education~~ Division of Elementary
8 and Secondary Education;

9

10 SECTION 2314. Arkansas Code § 20-78-205(c)(1), concerning the creation
11 of the Division of Child Care and Early Childhood Education, is amended to
12 read as follows:

13 (c)(1) In addition to any other rights, powers, functions, and duties
14 granted by law to the ~~division~~ Division of Child Care and Early Childhood
15 Education, the Department of Human Services is hereby authorized to promote
16 and cooperate in the establishment of a foundation under the Arkansas
17 nonprofit corporation law and to accept support and assistance in the form of
18 money, property, or otherwise from the foundation to be used to enhance
19 quality, affordability, and availability of child care and early education
20 for all children in the state.

21

22 SECTION 2315. Arkansas Code § 20-78-502(a)(6), concerning the duties
23 of the Arkansas Early Childhood Commission, is amended to read as follows:

24 (6) Advising the ~~Department of Education~~ Division of Elementary
25 and Secondary Education and other appropriate state agencies on the
26 development of programmatic standards for early childhood programs to be
27 funded with funds appropriated to the ~~department~~ Division of Elementary and
28 Secondary Education or to such other state agencies as may receive
29 appropriations for such purposes;

30

31 SECTION 2316. Arkansas Code § 20-78-502(b), concerning the duties of
32 the Arkansas Early Childhood Commission, is amended to read as follows:

33 (b) The ~~division~~ Division of Child Care and Early Childhood Education
34 shall assist the commission in carrying out its duties and responsibilities.

35

36 SECTION 2317. The introductory language of Arkansas Code § 21-5-

1 223(b)(1), concerning severance pay, is amended to read as follows:

2 (b)(1) If the head of an institution of higher education determines
3 that it is necessary to implement the state workforce reduction policy due to
4 institution organization structure change, budgetary reductions, abolishment
5 of positions or duties, loss of functional responsibility by the institution,
6 or the loss of federal funding, grants, or other special funds, the head of
7 the institution, upon approval by the Director of the ~~Department~~ Division of
8 Higher Education, may authorize the payment of funds on a regular payroll
9 schedule as severance pay to full-time, part-time, and job sharing classified
10 employees in regular positions affected by the workforce reduction on the
11 basis of the following pro rata lump sum for completed years of service,
12 including any formally implemented probationary period:

13
14 SECTION 2318. Arkansas Code § 21-5-1001(b)(2), concerning the
15 legislative intent regarding employee performance evaluations, is amended to
16 read as follows:

17 (2) Institution of higher education employees shall be evaluated
18 using an instrument approved by the ~~Department~~ Division of Higher Education.

19
20 SECTION 2319. Arkansas Code § 21-5-1203(b), concerning the
21 compensation of public school district employees and emergency activities, is
22 amended to read as follows:

23 (b) The ~~Department of Education~~ Division of Elementary and Secondary
24 Education shall establish appropriate procedures for the administration of
25 this section.

26
27 SECTION 2320. The introductory language of Arkansas Code § 21-5-
28 1402(7)(B), concerning the Higher Education Uniform Classification and
29 Compensation Act, is amended to read as follows:

30 (B) The ~~Department~~ Division of Higher Education may
31 authorize a temporary crossgrade through a change in the classification of a
32 position from the classification authorized in an institution's appropriation
33 act between legislative sessions to assure correct classification and for
34 other purposes with the following restrictions:

35
36 SECTION 2321. Arkansas Code § 21-5-1402(7)(B)(iii) and (iv),

1 concerning the Higher Education Uniform Classification and Compensation Act,
2 are amended to read as follows:

3 (iii) Positions that have been crossgraded may be
4 restored to the original authorized class during the fiscal year with the
5 approval of the ~~department~~ division for those positions within the same
6 occupational group;

7 (iv) Position classifications may be crossgraded or
8 restored to their original classifications only after the review and approval
9 of the ~~department~~ division;

10

11 SECTION 2322. Arkansas Code § 21-5-1402(13)(A)(ii), concerning the
12 Higher Education Uniform Classification and Compensation Act, is amended to
13 read as follows:

14 (ii) The ~~department~~ division may authorize job
15 sharing for any regular full-time position.

16

17 SECTION 2323. Arkansas Code § 21-5-1402(13)(B), concerning the Higher
18 Education Uniform Classification and Compensation Act, is amended to read as
19 follows:

20 (B) The Director of the ~~Department~~ Division of Higher
21 Education or his or her designee shall promulgate necessary rules to carry
22 out this subdivision (13);

23

24 SECTION 2324. Arkansas Code § 21-5-1402(20)(E), concerning the Higher
25 Education Uniform Classification and Compensation Act, is amended to read as
26 follows:

27 (E) Interim reclassifications approved by the ~~department~~
28 division shall be implemented through the crossgrading of existing positions
29 within an institution of higher education or through the acquisition of pool
30 positions as authorized in § 21-5-1414(a)(1).

31

32 SECTION 2325. The introductory language of Arkansas Code § 21-5-
33 1405(a), concerning the duties of the Department of Higher Education, is
34 amended to read as follows:

35 (a) The ~~Department~~ Division of Higher Education shall perform the
36 following administrative duties with respect to the institution of higher

1 education classification and compensation plan, subject to this subchapter:

2
3 SECTION 2326. Arkansas Code § 21-5-1405(a)(3)(A), concerning the
4 duties of the Department of Higher Education, is amended to read as follows:

5 (3)(A) Authorize the temporary reclassification of positions in
6 an institution affected by this subchapter in cases in which it has been
7 determined by the ~~department~~ division that there are material changes in the
8 duties and responsibilities assigned to the position when there is no
9 available vacant position having the proper classification and when it is
10 impracticable to restructure the duties of the position to the proper
11 classification.

12
13 SECTION 2327. Arkansas Code § 21-5-1405(a)(4)(B), concerning the
14 duties of the Department of Higher Education, is amended to read as follows:

15 (B) When necessary, the ~~department~~ division shall confer
16 with the staff of the Legislative Council on the development of and revisions
17 to uniform classification and compensation systems.

18
19 SECTION 2328. Arkansas Code § 21-5-1405(a)(6)(C), concerning the
20 duties of the Department of Higher Education, is amended to read as follows:

21 (C) The procedure under subdivision (a)(6)(A) of this
22 section shall require the final approval of the Director of the ~~Department~~
23 Division of Higher Education, with the review of the Legislative Council or,
24 if the General Assembly is in session, the Joint Budget Committee;

25
26 SECTION 2329. The introductory language of Arkansas Code § 21-5-
27 1405(a)(7)(B), concerning the duties of the Department of Higher Education,
28 is amended to read as follows:

29 (B) Unqualified appointments shall be reported by the
30 ~~department~~ division to the Legislative Council unless one (1) of the
31 following actions is taken:

32
33 SECTION 2330. The introductory language of Arkansas Code § 21-5-
34 1405(b), concerning the duties of the Department of Higher Education, is
35 amended to read as follows:

36 (b) To ensure and provide for the accuracy and efficiency of this

1 subchapter and to provide for an efficient and equitable system of personnel
2 management, the ~~Department~~ Division, with the review of the Legislative
3 Council, shall:

4
5 SECTION 2331. Arkansas Code § 21-5-1409(a), concerning the
6 implementation procedure for grade changes and salary, is amended to read as
7 follows:

8 (a) The ~~Department~~ Division of Higher Education has administrative
9 responsibility for enforcing compliance by institutions of higher education
10 affected by this subchapter in implementing classification and grade changes.
11

12 SECTION 2332. Arkansas Code § 21-5-1409(b)(1)(A)(i), concerning the
13 implementation procedure for grade changes and salary, is amended to read as
14 follows:

15 (i) By a percentage up to two percent (2%) with
16 written approval by the Director of the ~~Department~~ Division of Higher
17 Education; or
18

19 SECTION 2333. Arkansas Code § 21-5-1409(e), concerning the
20 implementation procedure for grade changes and salary, is amended to read as
21 follows:

22 (e) All percentage calculations stipulated in this subchapter or any
23 other law affecting salaries of employees of institutions of higher education
24 may be rounded to the nearest even-dollar amount by the ~~Department~~ Division
25 of Higher Education when making the increases to employee salaries as
26 provided under subdivision (b)(1) of this section.
27

28 SECTION 2334. Arkansas Code § 21-5-1410(a)(1)(B)(i), concerning new
29 appointment to positions in an institution of higher education and other
30 compensation plan provisions, is amended to read as follows:

31 (B)(i) An institution may request a special rate of pay
32 for a specific classification due to prevailing market rates of pay to hire a
33 new employee up to the midpoint pay level of the appropriate grade of a
34 classification on the appropriate pay plan with the written approval of the
35 Director of the ~~Department~~ Division of Higher Education.
36

1 SECTION 2335. Arkansas Code § 21-5-1410(a)(1)(B)(iii) and (iv),
2 concerning new appointment to positions in an institution of higher education
3 and other compensation plan provisions, are amended to read as follows:

4 (iii) A special rate of pay shall not be approved
5 under this section unless the classification is properly reviewed and the
6 special rate of pay is approved as a market-rate classification for the grade
7 and listed on a register of such pay levels by classification maintained by
8 the ~~Department~~ Division of Higher Education.

9 (iv) The ~~department~~ division shall file a report of
10 all such classifications with the Legislative Council, or if the General
11 Assembly is in session, the Joint Budget Committee, within the month
12 following the approval.

13
14 SECTION 2336. Arkansas Code § 21-5-1410(a)(1)(C)(ii), concerning new
15 appointment to positions in an institution of higher education and other
16 compensation plan provisions, is amended to read as follows:

17 (ii) The ~~department~~ division shall file a report of
18 all the employee salary adjustments under subdivision (a)(1)(C)(i) of this
19 section with the Legislative Council or, if the General Assembly is in
20 session, the Joint Budget Committee, within the month following the approval;
21 or

22
23 SECTION 2337. Arkansas Code § 21-5-1410(c)(1), concerning new
24 appointment to positions in an institution of higher education and other
25 compensation plan provisions, is amended to read as follows:

26 (1) Employee meets or exceeds the eligibility requirements
27 approved by the ~~department~~ division after review by the Legislative Council
28 or, if the General Assembly is in session, the Joint Budget Committee, which
29 shall include at a minimum:

30
31 SECTION 2338. Arkansas Code § 21-5-1410(f)(2), concerning new
32 appointment to positions in an institution of higher education and other
33 compensation plan provisions, is amended to read as follows:

34 (2) An employee who is placed in a lower-graded position on
35 either compensation plan because the original position has expired due to
36 lack of funding, program changes, or withdrawal of federal grant funds may

1 continue to be paid at the same rate as the employee was being paid in the
2 higher-graded position upon approval of the ~~department~~ division after seeking
3 the review of the Legislative Council or, if the General Assembly is in
4 session, the Joint Budget Committee.

5
6 SECTION 2339. The introductory language of Arkansas Code § 21-5-
7 1411(a)(1), concerning shift differentials, is amended to read as follows:

8 (a)(1) Upon the approval of the ~~Department~~ Division of Higher
9 Education, an employee whose working hours do not conform to normal state
10 business hours shall be eligible for additional compensation up to twelve
11 percent (12%) of the hourly rate for which he or she is eligible under this
12 subchapter as a shift differential if:

13
14 SECTION 2340. Arkansas Code § 21-5-1411(c)(3)(B), concerning shift
15 differentials, is amended to read as follows:

16 (B) The shift schedule, classifications, positions, and
17 the percentage of shift differential for which the class titles are eligible
18 shall be submitted to the ~~department~~ division for approval by the Director of
19 the ~~Department~~ Division of Higher Education.

20
21 SECTION 2341. Arkansas Code § 21-5-1411(e), concerning shift
22 differentials, is amended to read as follows:

23 (e) The ~~department~~ division shall report all shift differential
24 approvals to the Legislative Council or, if the General Assembly is in
25 session, the Joint Budget Committee.

26
27 SECTION 2342. Arkansas Code § 21-5-1412(b)(1)(D), concerning
28 compensation differentials, is amended to read as follows:

29 (D) Compensation differential plan has been approved by
30 the ~~Department~~ Division of Higher Education after review by the Legislative
31 Council or, if the General Assembly is in session, the Joint Budget
32 Committee.

33
34 SECTION 2343. Arkansas Code § 21-5-1412(c)(2)(B) and (C), concerning
35 compensation differentials, are amended to read as follows:

36 (B) The positions shall be certified by the head of the

1 institution as having been assigned to a work environment that poses an
2 increased risk of personal injury and shall be submitted as part of the plan
3 for payment of hazardous duty differential to the ~~department~~ division for
4 approval by the Director of the ~~Department~~ Division of Higher Education after
5 review and approval of the Legislative Council or, if the General Assembly is
6 in session, the Joint Budget Committee.

7 (C) Subsequent changes to the facility or unit, location,
8 and eligible positions or classifications within the facility or unit on file
9 with the ~~department~~ division shall receive prior approval by the director
10 after review and approval of the Legislative Council or, if the General
11 Assembly is in session, the Joint Budget Committee.

12
13 SECTION 2344. Arkansas Code § 21-5-1413(a)(1)(D), concerning salary
14 administration grids, is amended to read as follows:

15 (D) Salary administration grid has been approved by the
16 Director of the ~~Department~~ Division of Higher Education after review by the
17 Legislative Council or, if the General Assembly is in session, the Joint
18 Budget Committee.

19
20 SECTION 2345. Arkansas Code § 21-5-1413(a)(2)(E), concerning salary
21 administration grids, is amended to read as follows:

22 (E) A plan of implementation and salary progression shall
23 be approved by the ~~Department~~ Division of Higher Education on a biennial
24 basis.

25
26 SECTION 2346. Arkansas Code § 21-5-1413(a)(3), concerning salary
27 administration grids, is amended to read as follows:

28 (3) An approved salary administration grid may be amended only
29 upon approval by the ~~department~~ division after review by the Legislative
30 Council or, if the General Assembly is in session, the Joint Budget
31 Committee.

32
33 SECTION 2347. Arkansas Code § 21-5-1413(b)(3), concerning salary
34 administration grids, is amended to read as follows:

35 (3) The ~~department~~ division shall promulgate rules regarding the
36 implementation and use of a salary administration grid with the review of the

1 Legislative Council or, if the General Assembly is in session, the Joint
2 Budget Committee.

3

4 SECTION 2348. Arkansas Code § 21-5-1415(a), concerning position pools
5 to be established and maintained by the Department of Higher Education, is
6 amended to read as follows:

7 (a) The ~~Department~~ Division of Higher Education shall establish and
8 maintain a central pool of four hundred (400) positions to be used to
9 establish additional positions in an institution of higher education when an
10 institution does not have sufficient positions available to meet
11 unanticipated enrollment growth, industry training demands, or its mandated
12 responsibilities.

13

14 SECTION 2349. Arkansas Code § 21-5-1415(d) and (e), concerning
15 position pools to be established and maintained by the Department of Higher
16 Education, are amended to read as follows:

17 (d) The institution shall provide justification to the ~~department~~
18 division for the need to allocate positions from the central pool.

19 (e) Titles shall not be assigned to the institution from the central
20 pool until specific positions are requested by the institution, recommended
21 by the ~~department~~ division, and reviewed by the Legislative Council or, if
22 the General Assembly is in session, the Joint Budget Committee.

23

24 SECTION 2350. Arkansas Code § 21-5-1416(b), concerning annual career
25 service recognition payments for employees of institutions of higher
26 education, is amended to read as follows:

27 (b) The ~~Department~~ Division of Higher Education shall establish and
28 publish policies and procedures for the administration of career service
29 recognition payments to employees of institutions upon a determination by the
30 Director of the ~~Department~~ Division of Higher Education that the respective
31 institution has sufficient funds available for that purpose.

32

33 SECTION 2351. Arkansas Code § 21-5-1417(a), concerning the Merit
34 Increase Pay System, is amended to read as follows:

35 (a) The ~~Department~~ Division of Higher Education may develop and
36 implement a merit increase pay system in accordance with the performance

1 evaluation process under § 21-5-1001 for the employees of all institutions
2 covered by this subchapter.

3
4 SECTION 2352. Arkansas Code § 21-5-1417(d), concerning the Merit
5 Increase Pay System, is amended to read as follows:

6 (d) Merit payments may be awarded to employees who satisfy performance
7 evaluation-based criteria developed by institutions in accordance with rules
8 and policies developed and approved by the ~~Department~~ Division of Higher
9 Education after review by the Legislative Council.

10
11 SECTION 2353. Arkansas Code § 21-6-406(a)(52), concerning clerks of
12 county courts and miscellaneous fees, is amended to read as follows:

13 (52) For each abstract forwarded to the Auditor of State and to
14 the Director of the ~~Department of Education~~ Division of Elementary and
15 Secondary Education 1.00

16
17 SECTION 2354. Arkansas Code § 23-4-805(b), concerning exemptions and
18 certain officials permitted to accept and use passes regarding railroads and
19 transportation companies, is amended to read as follows:

20 (b) The Commissioner of Elementary and Secondary Education and the
21 Director of the ~~Department~~ Division of Career and Technical Education and the
22 prosecuting attorneys and judges of the circuit courts of the several
23 judicial districts of this state shall be permitted to accept and use a free
24 pass on any railroad in this state without incurring any penalty prescribed
25 under § 23-4-803 [repealed].

26
27 SECTION 2355. Arkansas Code § 23-39-505(b)(2)(A), concerning
28 qualifications for licensure and issuance regarding the Fair Mortgage Lending
29 Act, is amended to read as follows:

30 (2)(A) Have received a high school diploma or a high school
31 equivalency diploma approved by the ~~Department of Career Education~~ Adult
32 Education Section of the Division of Workforce Services.

33
34 SECTION 2356. Arkansas Code § 23-64-607(a)(2), concerning the
35 qualifications of a counselors for licensure or certification and issuance of
36 license, is amended to read as follows:

1 (2) Have received a high school diploma or a high school
2 equivalency diploma approved by the ~~Department of Career Education~~ Adult
3 Education Section of the Division of Workforce Services;

4
5 SECTION 2357. Arkansas Code § 23-115-103(11), concerning the
6 definition of "lobbying" under the Arkansas Scholarship Lottery Act, is
7 amended to read as follows:

8 (11) "Lobbying" means communicating directly or soliciting
9 others to communicate with the Director of the Office of the Arkansas
10 Lottery, the ~~Director~~ Secretary of the Department of Finance and
11 Administration, any employee of the office, or a member of the Legislative
12 Council with the purpose of influencing the actions of the office or the
13 Legislative Council;

14
15 SECTION 2358. The introductory language of Arkansas Code § 23-115-
16 103(22)(I), concerning the definition of "operating expenses" under the
17 Arkansas Scholarship Lottery Act, is amended to read as follows:

18 (I) Payments to the ~~Department~~ Division of Higher
19 Education to:

20
21 SECTION 2359. Arkansas Code § 23-115-103(22)(I)(i) and (ii),
22 concerning the definition of "operating expenses" under the Arkansas
23 Scholarship Lottery Act, are amended to read as follows:

24 (i) Reimburse the ~~Department~~ Division of Higher
25 Education for the costs of administering scholarship awards funded with net
26 proceeds; and

27 (ii) Replenish nonlottery state educational
28 resources expended by the ~~Department~~ Division of Higher Education on
29 scholarship awards otherwise funded with net proceeds;

30
31 SECTION 2360. Arkansas Code § 23-115-103(22)(M), concerning the
32 definition of "operating expenses" under the Arkansas Scholarship Lottery
33 Act, is amended to read as follows:

34 (M) Management fees charged by a financial institution to
35 manage a trust account or fund maintained by the ~~Department~~ Division of
36 Higher Education or the office;

1
2 SECTION 2361. Arkansas Code § 23-115-104(c)(2), concerning the
3 requirement of a fiscal impact statement to accompany a proposed bill, is
4 amended to read as follows:

5 (2) The ~~Department~~ Division of Higher Education or the office,
6 as applicable, shall assist in the preparation of the fiscal impact
7 statement.

8
9 SECTION 2362. Arkansas Code § 23-115-205(a)(22)(B), concerning the
10 powers of the Office of the Arkansas Lottery, is amended to read as follows:

11 (B) The office shall seek the advice of the ~~Department~~
12 Division of Higher Education when advertising to promote scholarships and
13 grants funded by net proceeds;

14
15 SECTION 2363. Arkansas Code § 23-115-603(a)(3), concerning the
16 fidelity fund, retailer fee, reserve account to cover losses, and a retailer
17 bond, is amended to read as follows:

18 (3) At the end of each fiscal year, the office shall pay to the
19 trust account managed and maintained by the ~~Department~~ Division of Higher
20 Education any amount in the fidelity fund that exceeds five hundred thousand
21 dollars (\$500,000), and the funds shall be considered net proceeds from a
22 lottery.

23
24 SECTION 2364. Arkansas Code § 23-115-1101(a)(4), concerning the duties
25 of the Legislative Council, is amended to read as follows:

26 (4) Review reports filed with the Legislative Council by the
27 ~~Department~~ Division of Higher Education, including without limitation reports
28 filed under §§ 6-85-205 and 6-85-220;

29
30 SECTION 2365. Arkansas Code § 24-1-301(2)(F)(i) and (ii), concerning
31 the forfeiture of public retirement system benefits, are amended to read as
32 follows:

33 (i) A college, university, or the ~~Department~~
34 Division of Higher Education provided for under § 24-7-801 et seq.; and

35 (ii) A vocational-technical school or the ~~Department~~
36 Division of Career and Technical Education, Adult Education Section of the

1 Division of Workforce Services, and the Office of Skills Development,
2 provided for under § 24-7-901 et seq.;

3
4 SECTION 2366. Arkansas Code § 24-2-302(2), concerning the
5 classification of members in the Arkansas Public Employees' Retirement
6 System, is amended to read as follows:

7 (2) All eligible employees of the ~~Department~~ Division of
8 Arkansas State Police shall be members of the State Police Retirement System;

9
10 SECTION 2367. Arkansas Code § 24-2-302(3)(D), concerning the
11 classification of members in the Arkansas Public Employees' Retirement
12 System, is amended to read as follows:

13 (D) Any person employed in a position requiring
14 professional training or certification with an area vocational-technical
15 school or employed by the Arkansas Educational Television Commission, except
16 that employees of area vocational-technical schools and the ~~Department~~
17 Division of Career and Technical Education, Adult Education Section of the
18 Division of Workforce Services, and the Office of Skills Development, who
19 have elected to participate in an alternate retirement plan established by §§
20 24-7-901 and 24-7-903 – 24-7-908 shall be active members of the alternate
21 retirement plan; and

22
23 SECTION 2368. Arkansas Code § 24-2-302(3)(E)(i), concerning the
24 classification of members in the Arkansas Public Employees' Retirement
25 System, is amended to read as follows:

26 (E)(i) Any person employed in a position requiring
27 professional training or certification with the Arkansas Rehabilitation
28 Services of the ~~Department of Career Education~~ Division of Workforce
29 Services, the Division of State Services for the Blind of the Department of
30 Human Services, or the Division of Youth Services of the Department of Human
31 Services except those employees who have elected coverage under § 24-4-101 et
32 seq.

33
34 SECTION 2369. Arkansas Code § 24-2-401(3)(F)(i) and (ii), concerning
35 the Arkansas Public Employees' Retirement System, are amended to read as
36 follows:

1 (i) A college, university, or the ~~Department~~
2 Division of Higher Education provided for under § 24-7-801 et seq.; or

3 (ii) A vocational-technical school or the ~~Department~~
4 Division of Career and Technical Education, Adult Education Section of the
5 Division of Workforce Services, and the Office of Skills Development,
6 provided for under § 24-7-901 et seq.; or

7
8 SECTION 2370. Arkansas Code § 24-2-401(4)(D)(i) and (ii), concerning
9 the Arkansas Public Employees' Retirement System, are amended to read as
10 follows:

11 (i) A college, university, or the ~~Department~~
12 Division of Higher Education whose employees are covered by an alternate
13 retirement plan provided for under § 24-7-801 et seq.; or

14 (ii) A vocational-technical school or the ~~Department~~
15 Division of Career and Technical Education, Adult Education Section of the
16 Division of Workforce Services, and the Office of Skills Development, whose
17 employees are covered by an alternate retirement plan provided for under §
18 24-7-901 et seq.

19
20 SECTION 2371. Arkansas Code § 24-2-703(b)(1), concerning tax
21 exemptions regarding the Arkansas Public Employees' Retirement System, is
22 amended to read as follows:

23 (b)(1) It is the purpose of this section to provide equitable tax
24 treatment to persons receiving benefits from alternate publicly supported
25 retirement or annuity plans of the state's colleges and universities and the
26 ~~Department~~ Division of Higher Education.

27
28 SECTION 2372. Arkansas Code § 24-4-101(17)(A)(i)(a), concerning the
29 Arkansas Public Employees' Retirement System, is amended to read as follows:

30 (17)(A)(i)(a) "Employees" means all officers and employees of
31 any office, agency, board, commission, including the ~~Department~~ Division of
32 Higher Education, or ~~Department~~ department of a public employer whose
33 compensations were or are payable from funds appropriated by the public
34 employer and all otherwise eligible employees whose compensations were or are
35 payable in whole or part from federal funds, as well as the official court
36 reporters and stenographers of the circuit and chancery courts of the state

1 and all of the prosecuting attorneys of the judicial districts of Arkansas.

2
3 SECTION 2373. Arkansas Code § 24-4-101(34)(B)(i)(b), concerning the
4 definition of "public safety member" under the laws of the Arkansas Public
5 Employees' Retirement System, is amended to read as follows:

6 (b) "Police officer" includes a wildlife
7 officer of the Arkansas State Game and Fish Commission, a drug enforcement
8 officer of a judicial drug taskforce, a civilian firefighter of the ~~State~~
9 ~~Military Department~~ Department of the Military covered under § 24-4-1004, and
10 all officers and the Chief of the State Capitol Police within the office of
11 the Secretary of State.

12
13 SECTION 2374. Arkansas Code § 24-4-522(c)(2), concerning the
14 applicability of benefit provisions of the Arkansas Public Employees'
15 Retirement System, is amended to read as follows:

16 (2)(A) Employees of the Department of Human Services and
17 employees of the Arkansas Rehabilitation Services of the ~~Department of Career~~
18 ~~Education~~ Division of Workforce Services shall be entitled to the benefit
19 amount computed by applying the benefit provisions prescribed by this chapter
20 for all credited service rendered before and after January 1, 1978, except
21 that benefit amounts based upon employment before January 1, 1978, shall not
22 be less than benefit amounts computed in accordance with benefit provisions
23 in effect December 31, 1977.

24 (B) On and after January 1, 1993, employees of the
25 Arkansas Rehabilitation Services of the ~~Department of Career Education~~
26 Division of Workforce Services who elected to be covered by the provisions of
27 this subsection and who are still active employees on January 1, 1993, shall
28 be entitled to the benefit amount computed by applying the benefit provisions
29 prescribed by this chapter for all credited service rendered before and after
30 January 1, 1978, except that benefit amounts based upon employment before
31 January 1, 1978, shall be computed in accordance with current benefit
32 provisions in effect for the Arkansas Teacher Retirement System at the time
33 of their retirement.

34
35 SECTION 2375. Arkansas Code § 24-4-901(d)(6), concerning credited
36 service and reciprocity of the Arkansas Retirement Plan, is amended to read

1 as follows:

2 (6) An alternate retirement plan for a college, university, or
3 the ~~Department~~ Division of Higher Education provided for under § 24-8-101 et
4 seq. or for a vocational-technical school or the ~~Department~~ Division of
5 Career Services, Adult Education Section of the Division of Workforce
6 Services, and the Office of Skills Development, provided for under § 24-9-201
7 et seq.; and

8

9 SECTION 2376. Arkansas Code § 24-7-202(17)(B)(ii), concerning the
10 definition of "employment with a school" under the laws governing the
11 Arkansas Teacher Retirement System, is amended to read as follows:

12 (ii) Area vocational-technical schools, except those
13 employees of area vocational schools and the ~~Department~~ Division of Career
14 Services, Adult Education Section of the Division of Workforce Services, and
15 the Office of Skills Development, who have elected to participate in an
16 alternate retirement plan established by §§ 24-7-901 and 24-7-903 – 24-7-908;

17

18 SECTION 2377. Arkansas Code § 24-7-202(17)(C), concerning the
19 definition of "employment with a school" under the laws governing the
20 Arkansas Teacher Retirement System, is amended to read as follows:

21 (C) Employment by the Arkansas Rehabilitation Services of
22 the ~~Department of Career Education~~ Division of Workforce Services except
23 those employees who have elected to participate in the Arkansas Public
24 Employees' Retirement System;

25

26 SECTION 2378. Arkansas Code § 24-7-801(1), concerning the definition
27 of "alternate retirement plan" under the laws providing for an alternate
28 retirement plan for state colleges, is amended to read as follows:

29 (1) "Alternate retirement plan" means a retirement plan based on
30 the purchase of contracts providing retirement and death benefits for the
31 employees of Arkansas State University, the ~~department~~ Division of Higher
32 Education employees, and employees of Arkansas' state-supported universities,
33 colleges, or junior colleges that are not a part of the University of
34 Arkansas System;

35

36 SECTION 2379. Arkansas Code § 24-7-801(4), concerning the definition

1 of "department employees" under the laws providing for an alternate
2 retirement plan for state colleges, is amended to read as follows:

3 (4) "~~Department~~ Division employees" means the Director of the
4 ~~Department~~ Division of Higher Education and the professional education
5 employees of the ~~Department~~ Division of Higher Education;

6
7 SECTION 2380. Arkansas Code § 24-7-804 is amended to read as follows:
8 24-7-804. Establishment and administration of plan.

9 (a) The board of any college and the Arkansas Higher Education
10 Coordinating Board may establish and maintain an alternate retirement plan
11 which shall authorize the purchase of contracts providing retirement and
12 death benefits for staff members and employees of the ~~Department~~ Division of
13 Higher Education.

14 (b) Under the plan, staff members and ~~department~~ division employees
15 shall contribute, to the extent authorized or required, toward the purchase
16 of the contracts, which shall be issued to and become the property of the
17 participants.

18 (c) The board of any college which elects to establish and maintain an
19 alternate retirement plan and the Director of the ~~Department~~ Division of
20 Higher Education, if it elects to establish and maintain a plan, shall have
21 authority to administer the plan and to perform or authorize the performance
22 of all such functions as may be reasonably appropriate in its administration.

23
24 SECTION 2381. Arkansas Code § 24-7-805(b) and (c), concerning the
25 methods of providing benefits and an agent for service of process for the
26 alternate retirement plan for state colleges, are amended to read as follows:

27 (b) The benefits to be provided for or on behalf of staff members and
28 employees of the ~~Department~~ Division of Higher Education under an alternate
29 retirement plan may be provided through insurance policies and annuity
30 contracts, both fixed and variable in nature, or a combination thereof, as
31 specified in the plan, which insurance policies and annuity contracts may be
32 obtained from any insurance company authorized to do business in this state
33 or from any nonprofit company organized and operated exclusively for the
34 purpose of aiding and strengthening educational or scientific institutions by
35 issuing insurance or annuity contracts only to or for the benefit of such
36 institutions or individuals engaged in their services.

1 (c) In any action brought by a staff member or ~~department~~ division
2 employee on a policy or contract, any official of the college or the Director
3 of the ~~Department~~ Division of Higher Education shall be deemed to be the
4 agent of the nonprofit company only for the purpose of service of process on
5 the contract or policy, and for no other purpose.

6
7 SECTION 2382. Arkansas Code § 24-7-806(a), concerning the procedure
8 for designation of companies to provide benefit contracts for the alternate
9 plan for state colleges, is amended to read as follows:

10 (a) The board of each college or university, or the Arkansas Higher
11 Education Coordinating Board of the ~~Department~~ Division of Higher Education,
12 shall designate the companies from which contracts are to be purchased under
13 the alternate retirement plan and shall approve the form and contents of the
14 contracts.

15
16 SECTION 2383. Arkansas Code § 24-7-807(5)(A) and (B), concerning
17 participation in an alternate retirement plan for state colleges, is amended
18 to read as follows:

19 (5)(A)(i) Any ~~Department~~ Division of Higher Education employee
20 who transferred from another state department or division covered by a state-
21 supported retirement system may elect to participate in an alternate
22 retirement plan.

23 (ii) The employee shall file written notice of his
24 or her election with the Director of the ~~Department~~ Division of Higher
25 Education.

26 (B)(i) Any ~~department~~ division employee with five (5) or
27 more years of actual service who elects to participate only in the alternate
28 retirement plan and who has left his or her contributions in the retirement
29 system shall be eligible to receive an annuity on or after attaining the
30 normal retirement age and on his or her retirement from covered employment.

31 (ii) The amount of the annuity shall be determined
32 by the benefit formula of the retirement system at the time of his or her
33 retirement.

34
35 SECTION 2384. Arkansas Code § 24-7-808 is amended to read as follows:
36 24-7-808. Contributions.

1 (a)(1) Any college or university which elects to establish and
2 maintain an alternate retirement plan, and the Arkansas Higher Education
3 Coordinating Board if it so elects, shall contribute to that plan on behalf
4 of each staff member who elects to participate in the alternate retirement
5 plan, or employee of the ~~Department~~ Division of Higher Education, six percent
6 (6%) of his or her total regular compensation during the continuance of his
7 or her employment.

8 (2) Each staff member who elects to participate in the alternate
9 retirement plan, or ~~department~~ division employee, at the discretion of the
10 college or university, shall also contribute thereto six percent (6%) of his
11 or her total regular compensation.

12 (b)(1) At its discretion, the ~~department~~ division, college, or
13 university may contribute a minimum of an additional four percent (4%) of the
14 staff member's total regular compensation.

15 (2) The ~~department~~ division, college, or university may
16 contribute an amount so that the percentage rate in subdivision (a)(1) of
17 this section plus the additional rate in subdivision (b)(1) of this section
18 equals the total employer contribution rate under the Arkansas Teacher
19 Retirement System if the college or university determines that sufficient
20 funds are available to pay that contribution rate.

21 (3) Each staff member may be required to match that additional
22 contribution by contributing a percentage of his or her total regular
23 compensation as determined by the ~~department~~ division, college, or
24 university.

25 (c) In addition to the contributions defined in subsections (a) and
26 (b) of this section, the ~~department~~ division or any college or university
27 which elects to establish and maintain an alternate retirement plan may
28 permit a newly eligible employee who elects to establish and maintain an
29 alternate retirement plan and may permit a newly eligible employee who elects
30 to participate in an alternate retirement plan to make incremental increases
31 in plan contributions to reach the required contribution level by completion
32 of the fourth year of participation in the alternate retirement plan.

33 (d) Payment of contributions authorized by this section shall be made
34 by the disbursing officer of the college or university and by the state
35 official charged with the duty of paying salaries to ~~department~~ division
36 employees to the designated companies in accordance with the provisions of

1 this section.

2

3 SECTION 2385. Arkansas Code § 24-7-907(4)(B), concerning participation
4 in an alternate retirement plan for vocational-technical schools, is amended
5 to read as follows:

6 (B) The notice of election shall be in writing on a form
7 established by the division and filed with both the Director of the
8 ~~Department of Career Education~~ Division of Higher Education and the
9 retirement system.

10

11 SECTION 2386. Arkansas Code § 24-7-1601(a)(2), concerning the Arkansas
12 Teacher Retirement System, is amended to read as follows:

13 (2) Confusion about the intent of the General Assembly
14 concerning the coverage of employees of state-supported universities,
15 colleges, junior colleges, and vocational-technical schools, the Arkansas
16 Higher Education Coordinating Board, the ~~Arkansas Department~~ Division of
17 Career and Technical Education, Adult Education Section, Office of Skills
18 Development, and Arkansas Rehabilitation Services, and any other entity
19 offering both the Arkansas Teacher Retirement System retirement plan and an
20 alternate retirement plan create uncertainty in the administration of law,
21 and legislative clarification of the law is needed.

22

23 SECTION 2387. Arkansas Code § 25-4-125(b)(1)(A), concerning the State
24 Broadband Manager, is amended to read as follows:

25 (A) State agencies, boards, commissions, and
26 constitutional officers, including without limitation the Governor,
27 Department of Education, ~~Department of Higher Education,~~ and Arkansas
28 Department of Transportation;

29

30 SECTION 2388. Arkansas Code § 25-6-101 is amended to read as follows:
31 25-6-101. Purpose.

32 It is intended that all authority and responsibility of the State Board
33 of Education be administered through the ~~Department of Education~~ Division of
34 Elementary and Secondary Education under the direction and supervision of the
35 Commissioner of Elementary and Secondary Education.

36

1 SECTION 2389. Arkansas Code § 25-6-102(a), concerning the organization
2 and Commissioner of the Department of Education, is amended to read as
3 follows:

4 (a) The ~~Department of Education~~ Division of Elementary and Secondary
5 Education shall consist of:

6 (1) The State Board of Education;

7 (2) The ~~Department of Education~~ Division of Elementary and
8 Secondary Education under the direction and supervision of the Commissioner
9 of Elementary and Secondary Education; and

10 (3) Any divisions or subdivisions as presently exist within the
11 ~~Department of Education~~ Division of Elementary and Secondary Education or as
12 may be created by the State Board of Education or as created by law and
13 placed under the ~~Department of Education~~ Division of Elementary and Secondary
14 Education.

15
16 SECTION 2390. Arkansas Code § 25-6-107(a)(1), concerning the local
17 education agency numbers, is amended to read as follows:

18 (a)(1) The ~~Department of Education~~ Division of Elementary and
19 Secondary Education is the sole and official issuer of local education agency
20 numbers to educational entities in the state.

21
22 SECTION 2391. Arkansas Code § 25-7-101 is amended to read as follows:

23 25-7-101. Creation – Director – Organization – Personnel.

24 (a) There is created a ~~Department~~ Division of Higher Education.

25 (b)(1) The executive head of the ~~department~~ division shall be the
26 Director of the ~~Department~~ Division of Higher Education.

27 (2) The director shall be appointed, in consultation with the
28 Arkansas Higher Education Coordinating Board, by the Governor and shall serve
29 at the pleasure of the Governor.

30 (3) The director shall report to the Secretary of the Department
31 of Education.

32 (c) The ~~department~~ division shall consist of the Arkansas Higher
33 Education Coordinating Board and any other divisions which may be created by
34 law and placed under the ~~department~~ Division of Higher Education.

35 (d) The director, with the advice and consent of the Governor, and the
36 Secretary of the Department of Education, shall appoint the heads of the

1 respective divisions. All of the personnel of the ~~department~~ Division of
2 Higher Education shall be employed by and serve at the pleasure of the
3 director. Provided, nothing in this section shall be so construed as to
4 reduce any right which an employee shall have under any civil service or
5 merit system.

6 (e) Each division of the ~~department~~ Division of Higher Education shall
7 be under the direction, control, and supervision of the director. The
8 director may delegate his or her functions, powers, and duties to various
9 divisions of the Department as he or she shall deem desirable or necessary
10 for the effective and efficient operation of the ~~department~~ Division of
11 Higher Education.

12 (f) The several institutions of higher education in this state shall
13 be requested to cooperate with the ~~department~~ Division of Higher Education in
14 an effort to coordinate their programs.

15
16 SECTION 2392. Arkansas Code § 25-10-144(b)(1), concerning the creation
17 of the Governor's Advisory Commission on National Service and Volunteerism,
18 is amended to read as follows:

19 (1) Assist the community engagement program and staff of the
20 Director's Office of the ~~Department of Human Services~~ Division of Higher
21 Education in setting goals, establishing priority activities, performing an
22 advocacy role, and assisting in funding and resource development and
23 publicity and recognition and awards programs; and

24
25 SECTION 2393. Arkansas Code § 25-10-144(c)(2)(H) and (I), concerning
26 the creation of the Governor's Advisory Commission on National Service and
27 Volunteerism, are amended to add an additional subdivision and to read as
28 follows:

29 (H) One (1) or more members representing a national
30 service program described in 42 U.S.C. § 12572, as it existed on January 1,
31 2015; ~~and~~

32 (I) The Commissioner of Elementary and Secondary Education
33 or his or her designee; and

34 (J) One (1) or more members representing the volunteer
35 sector.

36

1 SECTION 2394. Arkansas Code § 25-24-103 is amended to read as follows:
2 25-24-103. Staff of commission.

3 (a)(1) The Governor shall appoint ~~an executive director~~ the Director
4 of the Martin Luther King, Jr. Commission.

5 (2) The ~~executive~~ director shall serve at the pleasure of the
6 Governor.

7 (3) The director shall report to the Secretary of the Department
8 of Education.

9 (b) The ~~commission~~ Department of Education may employ staff and
10 consultants on behalf of the commission as authorized by law and fix their
11 compensation, duties, authority, and responsibilities.

12
13 SECTION 2395. Arkansas Code § 25-30-102(a)(2), concerning the powers
14 and duties of the Career Education and Workforce Development Board, is
15 amended to read as follows:

16 (2) All policy issues affecting the public schools will be
17 developed by the ~~Career Education and Workforce Development Board after~~
18 ~~consultation with the~~ State Board of Education and implemented in
19 coordination with the ~~Department of Education~~ Division of Elementary and
20 Secondary Education or the education service cooperatives, or both.

21
22 SECTION 2396. Arkansas Code § 25-30-104 is amended to read as follows:

23 25-30-104. Coordination with State Board of Education and ~~Department~~
24 ~~of Education~~ Division of Elementary and Secondary Education.

25 The ~~Career Education and Workforce Development Board and the~~ State
26 Board of Education shall coordinate their activities to ensure that academic,
27 workplace, and technical skills create opportunities for a strong
28 comprehensive education regardless of the student's ultimate career choice.

29
30 SECTION 2397. Arkansas Code § 25-30-106 is amended to read as follows:

31 25-30-106. ~~Department~~ Division of Career and Technical Education.

32 (a) There is created the ~~Department~~ Division of Career and Technical
33 Education within the Department of Education.

34 (b)(1) ~~The Arkansas Rehabilitation Services as an agency responsible~~
35 ~~to the Career Education and Workforce Development Board and as a part of the~~
36 ~~Department of Career Education shall function as an agency in accordance with~~

1 ~~§ 6-52-101 et seq. and § 25-30-201 et seq.~~

2 ~~(2) This subchapter shall assure that the Arkansas~~
 3 ~~Rehabilitation Services functions organizationally at a level at least equal~~
 4 ~~to that of any division or entity of the Department of Career Education.~~

5 ~~(c) The Governor shall appoint a director of the Department of Career~~
 6 ~~Education who shall:~~

7 ~~(1) Be a member of the Governor's cabinet;~~

8 ~~(2) Be confirmed by the Governor; and~~

9 ~~(3)(2) Serve at the pleasure of the Governor.~~

10 ~~(d) The director shall devote all of his or her time to the duties of~~
 11 ~~his or her office, shall act as agent of the board, and shall perform such~~
 12 ~~other duties as are designated by the board or by statute.~~

13 ~~(e) The director shall serve as the ex officio secretary of the board~~
 14 ~~without vote.~~

15 ~~(f) The person selected as director shall:~~

16 ~~(1) Be of good moral character;~~

17 ~~(2) Be recognized as a leader in the field of vocational or~~
 18 ~~workforce education;~~

19 ~~(3) Have a bachelor's degree from an accredited institution; and~~

20 ~~(4) Be qualified technically and by experience to direct the~~
 21 ~~work of the Department of Career Education.~~

22 ~~(g) No person who is related within the fourth degree of consanguinity~~
 23 ~~or affinity to any member of the board shall be eligible to serve as director~~
 24 ~~of the Department of Career Education.~~

25
 26 SECTION 2398. Arkansas Code § 25-30-107 is amended to read as follows:

27 25-30-107. Powers and duties of the ~~Department~~ Division of Career and
 28 Technical Education.

29 (a)(1) All personnel of the ~~Department~~ Division of Career and
 30 Technical Education shall be employed by and serve at the pleasure of the
 31 ~~Director of the Department of Career Education~~ Secretary of the Department of
 32 Education.

33 (2) However, this section does not reduce any rights or benefits
 34 of employees, including retirement benefits, that they had when employed by
 35 the Department of Career Education.

36 (b)(1) The authority and responsibility of the ~~Career Education and~~

1 ~~Workforce Development Board~~ State Board of Education and the ~~department~~
2 division shall include general control and supervision of all programs of
3 vocational, technical, and occupational education in secondary institutions.

4 (2) This authority shall apply to programs in:

5 (A) ~~State technical institutes;~~

6 ~~(B) State postsecondary vocational schools;~~

7 ~~(C) State area vocational high school centers;~~

8 ~~(D)~~(B) State public schools; and

9 ~~(E)~~(C) Any other public educational facility or

10 institution now in existence or hereafter established in the state with the
11 exception of technical colleges, community colleges, universities, and
12 colleges.

13
14 SECTION 2399. Arkansas Code § 25-30-108 is repealed.

15 ~~25-30-108. Authority of Director of the Department of Career Education~~
16 ~~to enter into contracts.~~

17 ~~The Director of the Department of Career Education may enter into~~
18 ~~contracts with private organizations licensed by the State Board of Education~~
19 ~~or the Department of Career Education in order to provide vocational-~~
20 ~~technical training to needy citizens of the State of Arkansas.~~

21
22 SECTION 2400. Arkansas Code § 26-18-303(a), concerning records held by
23 the Department of Finance and Administration, the confidentiality of those
24 records, and privilege and exceptions, is amended to read as follows:

25 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
26 Administration is the official custodian of all records and files required by
27 any state tax law to be filed with the ~~Director~~ Secretary of the Department
28 of Finance and Administration and is required to take all steps necessary to
29 maintain their confidentiality.

30 (2)(A)(i) Except as otherwise provided by this chapter, the
31 records and files of the ~~Director~~ Secretary of the Department of Finance and
32 Administration concerning the administration of any state tax law are
33 confidential and privileged.

34 (ii) These records and files and any information
35 obtained from these records or files or from any examination or inspection of
36 the premises or property of any taxpayer shall not be divulged or disclosed

1 by the ~~Director~~ Secretary of the Department of Finance and Administration or
2 any other person who may have obtained these records and files.

3 (B) It is the specific intent of this chapter that all tax
4 returns, audit reports, and information pertaining to any tax returns,
5 whether filed by individuals, corporations, partnerships, or fiduciaries,
6 shall not be subject to the provisions of the Freedom of Information Act of
7 1967, § 25-19-101 et seq.

8
9 SECTION 2401. Arkansas Code § 26-36-303(1)(A)(vi), concerning a setoff
10 against state tax refunds, is amended to read as follows:

11 (vi) The ~~Department~~ Division of Higher Education;

12
13 SECTION 2402. Arkansas Code § 26-36-303(1)(A)(xi), concerning a setoff
14 against state tax refunds, is amended to read as follows:

15 (xi) The Office of Personnel Management ~~of the~~
16 ~~Department of Finance and Administration;~~

17
18 SECTION 2403. Arkansas Code § 26-36-303(4), concerning a setoff
19 against state tax refunds, is repealed.

20 ~~(4) "Division" means the Revenue Division of the Department of~~
21 ~~Finance and Administration;~~

22
23 SECTION 2404. Arkansas Code § 26-36-303(5), concerning a setoff
24 against state tax refunds, is amended to read as follows:

25 (5) "Refund" means the Arkansas income tax refund that the
26 ~~division~~ Revenue Division of the Department of Finance and Administration
27 determines to be due any individual taxpayer less any amounts determined by
28 the ~~division~~ Revenue Division of the Department of Finance and Administration
29 to be due to the ~~division~~ Revenue Division of the Department of Finance and
30 Administration for payment of any state tax as defined in the Arkansas Tax
31 Procedure Act, § 26-18-101 et seq.; and

32
33 SECTION 2405. Arkansas Code § 26-51-509(c)(1)(B), concerning youth
34 apprenticeship programs, is amended to read as follows:

35 (B) If the apprentice is employed as described in
36 subdivision (a)(2) of this section, the ~~Department of Career Education~~ Office

1 of Skills Development.

2
3 SECTION 2406. Arkansas Code § 26-51-509(g)(2), concerning youth
4 apprenticeship programs, is amended to read as follows:

5 (2) The Department of Finance and Administration shall consult
6 with the ~~office~~ United States Office of Apprenticeship and the ~~Department of~~
7 ~~Career Education~~ Office of Skills Development during the promulgation of the
8 rules.

9
10 SECTION 2407. Arkansas Code § 26-51-1101(1), concerning the definition
11 of "accredited institution of higher education" under the laws governing
12 donations or sales of equipment to educational institutions, is amended to
13 read as follows:

14 (1) "Accredited institution of higher education" means a four-
15 year public college or university that offers bachelor's degrees and is
16 recognized by the ~~Department~~ Division of Higher Education for credit;

17
18 SECTION 2408. Arkansas Code § 26-51-1101(5), concerning the definition
19 of "qualified education program" under the laws governing donations or sales
20 of equipment to educational institutions, is amended to read as follows:

21 (5) "Qualified education program" means a program conducted by a
22 qualified educational institution under rules prescribed by the ~~Department~~
23 Division of Higher Education for programs in colleges, universities, or
24 junior colleges, by the ~~Department of Workforce Education~~ Division of Career
25 and Technical Education for programs in vocational technical training schools
26 and by the ~~Department of Education~~ Division of Elementary and Secondary
27 Education for programs in elementary or secondary schools, all of which
28 programs are for the purpose of promoting the use of new machinery and
29 equipment for classroom, laboratory, and other educational instruction;

30
31 SECTION 2409. Arkansas Code § 26-51-1101(8), concerning the definition
32 of "qualified research program" under the laws governing donations or sales
33 of equipment to educational institutions, is amended to read as follows:

34 (8) "Qualified research program" means a program of applied or
35 basic research undertaken by a qualified educational institution pursuant to
36 rules jointly prescribed by the Division of Science and Technology of the

1 Arkansas Economic Development Commission and the ~~Department~~ Division of
2 Higher Education under § 15-3-110;

3
4 SECTION 2410. Arkansas Code § 26-80-101(b)(4)(A)(ii)(b), concerning a
5 uniform rate of tax, is amended to read as follows:

6 (b) ~~Department~~ Division of Elementary and
7 Secondary Education; and

8
9 SECTION 2411. Arkansas Code § 26-80-101(b)(4)(A)(vi), concerning a
10 uniform rate of tax, is amended to read as follows:

11 (vi) The ~~Department~~ Division of Elementary and
12 Secondary Education shall notify the Assessment Coordination ~~Department~~
13 Division if a county treasurer violates subdivision (b)(4)(A)(ii) of this
14 section and withholding of reappraisal funding under this subdivision
15 (b)(4)(A) is authorized.

16
17 SECTION 2412. Arkansas Code § 26-80-102(a)(3)(B), concerning approval
18 of taxes at elections, is amended to read as follows:

19 (B) However, if the rate approved has been modified
20 pursuant to the uniform rate of tax calculated by the ~~Department~~ Division of
21 Elementary and Secondary Education, then the tax shall be collected at the
22 modified rate until another rate is approved.

23
24 SECTION 2413. Arkansas Code § 26-80-403 is amended to read as follows:
25 26-80-403. Establishment of compliance.

26 Compliance with the uniform rate of tax shall be established by the
27 ~~Department of Education~~ Division of Elementary and Secondary Education in
28 coordination with the Assessment Coordination ~~Department~~ Division.

29
30 SECTION 2414. Arkansas Code § 26-80-404 is amended to read as follows:
31 26-80-404. Calculation of compliance with the uniform rate of tax.

32 (a) On or before October 1 of each year, the ~~Department of Education~~
33 Division of Elementary and Secondary Education, in conjunction with the
34 Assessment Coordination ~~Department~~ Division, shall monitor each school
35 district's compliance with the uniform rate of tax.

36 (b)(1) The ~~Department of Education~~ Division of Elementary and

1 Secondary Education and the Assessment Coordination ~~Department~~ Division
2 shall determine compliance with the uniform rate of tax by analyzing the
3 millage rate levied for maintenance and operation millage from the most
4 recent school election in a school district in which the ad valorem tax rate
5 was voted upon.

6 (2) If the millage rate levied for maintenance and operation
7 millage is equal to or greater than twenty-five (25) mills, then the school
8 district is in compliance with the uniform rate of tax and Arkansas
9 Constitution, Amendment 74.

10
11 SECTION 2415. Arkansas Code § 27-16-701(e), concerning an application
12 for a commercial or noncommercial driver's license or instruction permit and
13 restricted permits, is amended to read as follows:

14 (e) The ~~Department of Education~~ Division of Elementary and Secondary
15 Education shall develop guidelines for use by school districts to provide a
16 certified exemption from the "C" average requirement of subdivisions (d)(1)-
17 (3) of this section to a student found to be performing at his or her fullest
18 level of capability although that may be below a "C" average.

19
20 SECTION 2416. Arkansas Code § 27-20-109 is amended to read as follows:
21 27-20-109. Operator instruction.

22 (a) The ~~Department of Education~~ Division of Elementary and Secondary
23 Education is authorized to prescribe and offer a course in motorcycle and
24 motor-driven cycle operator instruction to be conducted as a part of the
25 driver education program.

26 (b)(1) The course in motorcycle and motor-driven cycle operation may
27 be conducted both at the elementary and high school levels.

28 (2) The course should include classroom instruction, actual
29 operation of a motorcycle or motor-driven cycle, and other matters that the
30 ~~department~~ division may determine to be necessary to properly equip the
31 student to safely operate a motorcycle.

32
33 SECTION 2417. Arkansas Code § 27-24-1102(4), concerning agriculture
34 education, is amended to read as follows:

35 (4) Certifies to the ~~Department~~ Division of Higher Education
36 that its students are accepted for transfer at institutions accredited by an

1 accrediting agency recognized by the ~~federal~~ United States Department of
2 Education; and

3
4 SECTION 2418. Arkansas Code Title 25, Chapter 43, is amended to add an
5 additional subchapter to read as follows:

6 Subchapter 6 – Department of Energy and Environment

7
8 25-43-601. Department of Energy and Environment.

9 There is created the Department of Energy and Environment as a cabinet-
10 level department.

11
12 25-43-602. State entities transferred to Department of Energy and
13 Environment.

14 (a) The administrative functions of the following state entities are
15 transferred to the Department of Energy and Environment by a cabinet level
16 transfer:

17 (1) The Advisory Committee on Petroleum Storage Tanks, created
18 under § 8-7-904;

19 (2) The Arkansas Department of Environmental Quality, now to be
20 known as the Division of Environmental Quality, created under § 25-43-604;

21 (3) The Arkansas Geological Survey, created under § 15-55-201;

22 (4) The Arkansas Pollution Control and Ecology Commission,
23 created under § 8-4-104;

24 (5) The Arkansas Public Service Commission, created under § 23-
25 2-101;

26 (6) The Liquefied Petroleum Gas Board, created under § 15-75-
27 201;

28 (7) The Nutrient Water Quality Trading Advisory Panel, created
29 under § 8-4-233; and

30 (8) The Oil and Gas Commission, created under § 15-71-101.

31 (b) Unless otherwise provided by law, a cabinet-level department
32 transfer under subsection (a) of this section includes all state entities
33 under a state entity transferred to the Department of Energy and Environment
34 under subsection (a) of this section, including without limitation a
35 division, office, program, or other unit of a state entity transferred to the
36 Department of Energy and Environment under subsection (a) of this section.

1 (c) Unless otherwise provided by law, a state entity whose
2 administrative functions have been transferred to the Department of Energy
3 and Environment under subsection (a) of this section shall otherwise continue
4 to exercise the duties of the state entity under the administration of the
5 cabinet-level Department of Energy and Environment in the same manner as
6 before the creation of the cabinet-level department.

7
8 25-43-603. Secretary of the Department of Energy and Environment.

9 (a) The executive head of the Department of Energy and Environment
10 shall be the Secretary of the Department of Energy and Environment.

11 (b) The secretary shall be appointed by the Governor, subject to
12 confirmation by the Senate, and shall serve at the pleasure of the Governor.

13 (c) Each division of the department shall be under the direction,
14 control, and supervision of the secretary.

15 (d) The secretary may delegate his or her functions, powers, and
16 duties to various divisions or employees of the department as he or she shall
17 deem desirable and necessary for the effective and efficient operation of the
18 department.

19 (e) The secretary may, unless otherwise provided by law:

20 (1) Hire department personnel;

21 (2) Perform or assign duties assigned to the department; and

22 (3) Serve as the director, or the administrative or executive
23 head of any state entity under the administrative control of the department,
24 if the secretary also meets all statutory requirements for the position.

25
26 25-43-604. Division of Environmental Quality.

27 (a) There is created the Division of Environmental Quality.

28 (b) The Division of Environmental Quality shall consist of the
29 divisions transferred from the Arkansas Pollution Control and Ecology
30 Commission as of July 1, 1971, and all other divisions, programs, and offices
31 under the Arkansas Department of Environmental Quality as of June 30, 2019.

32 (c) All other departments, divisions, agencies, and commissions within
33 this state shall cooperate with the Division of Environmental Quality in
34 fulfilling the Division of Environmental Quality's responsibilities as
35 defined in this subchapter.

36 (d) All personnel of the Division of Environmental Quality shall be

1 employed by Department of Energy and Environment and serve at the pleasure of
2 the Secretary of the Department of Energy and Environment. This subsection
3 does not reduce any right which an employee in the Division of Environmental
4 Quality shall have under any civil service or merit system.

5
6 25-43-605. Director of the Division of Environmental Quality.

7 (a)(1) The executive head of the Division of Environmental Quality
8 shall be the Director of the Division of Environmental Quality.

9 (2) The director shall be appointed by the Governor with the
10 advice and consent of the Senate, and shall serve at the pleasure of the
11 Governor.

12 (3) The director shall report to the Secretary of the Department
13 of Energy and Environment.

14 (b) The director, with the advice and consent of the secretary, may
15 organize the Division of Environmental Quality into divisions, offices, or
16 units which may be necessary to effectively and efficiently administer the
17 statutory responsibilities of the Division of Environmental Quality.

18 (c) The director, with the advice and consent of the secretary, shall
19 appoint the heads of the respective divisions, offices, or units of the
20 Division of Environmental Quality.

21 (d) Each division, office, or unit of the Division of Environmental
22 Quality shall be under the direction, control, and supervision of the
23 director. The director may delegate his or her functions, powers, and duties
24 to various divisions, offices, or units of the Division of Environmental
25 Quality as he or she shall deem desirable and necessary for the effective and
26 efficient operation of the Division of Environmental Quality.

27 (e)(1) The director shall be the executive officer and active
28 administrator of all pollution control activities.

29 (2) All of the powers of the Arkansas Pollution Control and
30 Ecology Commission under §§ 8-4-201(b)(5), 8-4-203, and 8-4-204 relating to
31 plans and specifications for disposal systems and permits for the discharge
32 of sewage, industrial wastes, or other wastes into the waters of the state
33 are vested in the director.

34
35 SECTION 2419. Arkansas Code § 2-15-404(b)(6)(A), concerning the State
36 Plant Board research program, is amended to read as follows:

1 (A) Coordinate with the Arkansas Energy Office of the
2 ~~Arkansas Department~~ Division of Environmental Quality to study the use of
3 industrial hemp in new energy technologies, including without limitation:

4 (i) Evaluation of the use of industrial hemp to
5 generate electricity, and to produce biofuels and other forms of energy
6 resources;

7 (ii) Growth of industrial hemp on reclaimed mine
8 sites;

9 (iii) Use of hemp seed oil in the production of
10 fuels; and

11 (iv) Assessment of the production costs,
12 environmental issues, and costs and benefits involved with the use of
13 industrial hemp for energy; and
14

15 SECTION 2420. Arkansas Code § 2-15-404(b)(8), concerning the State
16 Plant Board research program, is amended to read as follows:

17 (8) The board shall notify the ~~Department~~ Division of Arkansas
18 State Police and each local law enforcement agency with jurisdiction of the
19 duration, size, and location of all industrial hemp demonstration plots.
20

21 SECTION 2421. Arkansas Code § 2-15-404(b)(10), concerning the State
22 Plant Board research program, is amended to read as follows:

23 (10) By December 31, 2018, and annually thereafter, the board
24 shall report on the status and progress of the industrial hemp research
25 program to the Governor and to the ~~Arkansas Agriculture Department of~~
26 Agriculture.
27

28 SECTION 2422. Arkansas Code § 2-40-406 is amended to read as follows:

29 2-40-406. ~~Arkansas Department~~ Division of Environmental Quality –
30 Jurisdiction unimpaired.

31 This subchapter shall not be interpreted as denying or preempting the
32 regulatory or enforcement jurisdiction of the ~~Arkansas Department~~ Division of
33 Environmental Quality.
34

35 SECTION 2423. Arkansas Code § 2-40-1302(a)(2), concerning disposal of
36 large animal carcasses, is amended to read as follows:

1 (2) However, no large animal carcass shall be buried or
2 otherwise disposed of in any landfill operated under a permit issued by the
3 ~~Arkansas Department~~ Division of Environmental Quality.
4

5 SECTION 2424. Arkansas Code § 8-1-101(a), concerning purpose of the
6 Arkansas Pollution Control and Ecology Commission, is amended to read as
7 follows:

8 (a) It is the purpose of this chapter to authorize the Arkansas
9 Pollution Control and Ecology Commission to establish a system of fees for
10 the issuance of permits required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229,
11 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, 8-6-213 [repealed], 8-6-214, 8-6-215 –
12 8-6-217 [superseded], and 8-9-403, to defray costs of other services provided
13 and to authorize the ~~Arkansas Department~~ Division of Environmental Quality to
14 collect and enforce these fees.
15

16 SECTION 2425. Arkansas Code § 8-1-102(3) and (4), concerning the
17 definitions of "department" and "director" regarding the Arkansas Pollution
18 Control and Ecology Commission, are repealed.

19 ~~(3) "Department" means the Arkansas Department of Environmental~~
20 ~~Quality;~~

21 ~~(4) "Director" means the executive head and active administrator~~
22 ~~of the Arkansas Department of Environmental Quality;~~
23

24 SECTION 2426. The introductory language of Arkansas Code § 8-1-103,
25 concerning the powers and duties of the Arkansas Department of Environmental
26 Quality and the Arkansas Pollution Control and Ecology Commission, is amended
27 to read as follows:

28 The ~~Arkansas Department~~ Division of Environmental Quality and the
29 Arkansas Pollution Control and Ecology Commission shall have the following
30 powers and duties, respectively:
31

32 SECTION 2427. Arkansas Code § 8-1-103(1)(B)(ii), concerning the powers
33 and duties of the Arkansas Department of Environmental Quality and the
34 Arkansas Pollution Control and Ecology Commission, is amended to read as
35 follows:

36 (ii) Should the amount of permit fees levied on and

1 received from permits existing prior to June 30, 1995, exceed the amounts
2 specified in subdivision (1)(B)(i) of this section in a fiscal year, the
3 overcollections may be retained by the ~~department~~ division to be used to
4 reduce permit fees in subsequent years by relative amounts.

5
6 SECTION 2428. Arkansas Code § 8-1-103(2)(D), concerning the powers and
7 duties of the Arkansas Department of Environmental Quality and the Arkansas
8 Pollution Control and Ecology Commission, is amended to read as follows:

9 (D) Notwithstanding other provisions of this subchapter
10 and other applicable laws, the commission is authorized to promulgate and the
11 ~~department~~ division is authorized to collect annual fees from facilities
12 electing to operate under the terms and conditions of a pollution prevention
13 plan in lieu of an air permit. The annual pollution prevention plan fee shall
14 be equal to the fee otherwise applicable to facilities operating under an air
15 permit;

16
17 SECTION 2429. Arkansas Code § 8-1-103(3)-(5), concerning the powers
18 and duties of the Arkansas Department of Environmental Quality and the
19 Arkansas Pollution Control and Ecology Commission, are amended to read as
20 follows:

21 (3) The ~~department~~ division shall collect the permit fees as
22 established by the commission and shall deny the issuance of an initial
23 permit, a renewal permit, or a modification permit if and when any facility
24 subject to control by the ~~department~~ division fails or refuses to pay the
25 fees after reasonable notice as established by the regulations promulgated
26 under this chapter;

27 (4) The ~~department~~ division shall require that any fee defined
28 in this chapter shall be paid prior to the issuance of any permit; and

29 (5) The ~~department~~ division is hereby authorized to promulgate
30 such rules and regulations necessary to administer the fees, rates, tolls, or
31 charges for services established by this section and is directed to prescribe
32 and collect such fees, rates, tolls, or charges for the services delivered by
33 the ~~department~~ division in such manner as may be necessary to support the
34 programs of the ~~department~~ division as directed by the Governor and the
35 General Assembly.

36

1 SECTION 2430. Arkansas Code § 8-1-104 is amended to read as follows:

2 8-1-104. Existing rules and regulations.

3 All existing rules and regulations of the ~~Arkansas Department~~ Division
4 of Environmental Quality not inconsistent with the provisions of this chapter
5 relating to subjects embraced within this chapter shall remain in full force
6 and effect until expressly repealed, amended, or superseded if the rules and
7 regulations do not conflict with the provisions of this chapter.

8
9 SECTION 2431. Arkansas Code § 8-1-105 is amended to read as follows:

10 8-1-105. ~~Arkansas Department~~ Division of Environmental Quality Fee
11 Trust Fund.

12 (a) ~~An Arkansas Department~~ A Division of Environmental Quality Fee
13 Trust Fund is established on the books of the Treasurer of State, the Auditor
14 of State, and the Chief Fiscal Officer of the State.

15 (b) All interest earnings and fees collected under the provisions of
16 all laws administered by the ~~Arkansas Department~~ Division of Environmental
17 Quality shall be deposited into this fund unless otherwise provided by law.
18 The ~~department~~ division shall use these funds to defray the costs of
19 operating the ~~department~~ division.

20 (c) The ~~department~~ division is hereby authorized to promulgate such
21 rules and regulations as are necessary to administer the fees, rates, tolls,
22 or charges for services established by this section and is directed to
23 prescribe and collect such fees, rates, tolls, or charges for the services
24 delivered by the ~~department~~ division in such manner as may be necessary to
25 support the programs of the ~~department~~ division as directed by the Governor
26 and the General Assembly.

27
28 SECTION 2432. Arkansas Code § 8-1-106(a)(2)(F), concerning disclosure
29 statements, denial of application, appeal, and regulations, is amended to
30 read as follows:

31 (F) Any other information the Director of the ~~Arkansas~~
32 ~~Department~~ Division of Environmental Quality may require that relates to the
33 competency, reliability, or responsibility of the applicant and affiliated
34 persons; and

35
36 SECTION 2433. Arkansas Code § 8-1-106(b)(1), concerning disclosure

1 statements, denial of application, appeal, and regulations, is amended to
2 read as follows:

3 (b)(1) Except as provided in subdivisions (b)(2) and (4) of this
4 section, all applicants for the issuance or transfer of any permit, license,
5 certification, or operational authority issued by the ~~Arkansas Department~~
6 Division of Environmental Quality shall file a disclosure statement with
7 their applications. Deliberate falsification or omission of relevant
8 information from disclosure statements shall be grounds for civil or criminal
9 enforcement action or administrative denial of a permit, license,
10 certification, or operational authorization.

11

12 SECTION 2434. Arkansas Code § 8-1-106(b)(2)(B), concerning disclosure
13 statements, denial of application, appeal, and regulations, is amended to
14 read as follows:

15 (B) Applicants for a general permit to be issued by the
16 ~~department~~ division pursuant to its authority to implement the National
17 Pollutant Discharge Elimination System for storm water discharge or any other
18 person or entity the Arkansas Pollution Control and Ecology Commission may by
19 rule exempt from the submissions of a disclosure statement.

20

21 SECTION 2435. Arkansas Code § 8-1-106(b)(5)(B), concerning disclosure
22 statements, denial of application, appeal, and regulations, is amended to
23 read as follows:

24 (B) Submits the information on forms developed by the
25 ~~department~~ division.

26

27 SECTION 2436. Arkansas Code § 8-1-107 is amended to read as follows:

28 8-1-107. Inspections – Definitions – Investigations – Inspection
29 warrant – Exceptions – Penalties.

30 (a) General. Whenever it shall be necessary for the purpose of
31 implementing or monitoring the enforcement of any law charged to the
32 authority of the ~~Arkansas Department~~ Division of Environmental Quality, any
33 authorized employee or agent of the ~~department~~ division may enter upon any
34 public or private property for the purpose of obtaining information or
35 conducting investigations or inspections, subject to the following
36 provisions.

1 (b) Definitions. As used in this section, the following terms shall
2 have these ascribed meanings:

3 (1) "Administrative inspections" means investigation by
4 ~~department~~ division personnel at facilities operating within the ~~department's~~
5 division's apparent regulatory jurisdiction;

6 (2) "Facility" means the public or private area, premises,
7 curtilage, building, or conveyance described as the subject of administrative
8 inspection;

9 (3) "Pervasively regulated facility or activity" means the
10 activity or facility that is the location of activity authorized by the
11 ~~department~~ division through a permit, license, certification, or operational
12 status approval; and

13 (4)(A) "Probable cause" means showing that an administrative
14 search limited in scope is necessary to ensure compliance with or enforcement
15 of laws, regulations, or orders charged to the ~~department~~ division for
16 implementation.

17 (B) For the purpose of conducting administrative
18 inspections or applying for administrative warrants, probable cause may be
19 provided to the ~~department~~ division through complaints or other means that
20 reasonably justify a limited and controlled administrative inspection.

21 (c) Administrative Inspections.

22 (1)(A) Whenever the ~~department~~ division obtains information that
23 supports reasonable cause to believe that a violation of any law within its
24 regulatory authority is being or has been violated, or that unauthorized
25 regulated conduct is occurring or has occurred, ~~department~~ division personnel
26 or its agents may demand entry onto any property, public or private, to
27 inspect any facility.

28 (B) The ~~department's~~ division's investigation or
29 inspection shall be limited to that necessary to confirm or deny the cause
30 which prompted the investigation or inspection, and shall be conducted during
31 daylight, during regular business hours, or, under emergency or extraordinary
32 circumstances, at a time necessary to observe the suspected violation or
33 unauthorized conduct.

34 (C) Except under emergency circumstances, the ~~department~~
35 division shall inform such facility's owner or agent of all information which
36 forms the basis of its probable cause at the time of the inspection.

1 (2) Nothing in this subsection shall be construed as requiring
2 the ~~department~~ division to forfeit the element of surprise in its inspection
3 efforts.

4 (3) Also, nothing in this section shall be construed as limiting
5 the frequency of the periodic or random inspections of pervasively regulated
6 facilities or activities.

7 (4) For the purpose of this section, a rebuttable presumption
8 concerning the jurisdiction of the ~~department's~~ division's regulatory
9 authority is established as it regards the ~~department's~~ division's authority
10 to inspect any facility.

11 (d) Administrative Inspection Warrants. If consent to inspect is
12 denied, the ~~department~~ division may obtain an administrative inspection
13 warrant from a judicial officer. Issuance and execution of administrative
14 inspection warrants shall be as follows:

15 (1) Any judicial officer otherwise authorized to issue search
16 warrants within his or her jurisdiction may, upon proper oath or affirmation
17 showing probable cause as defined by this section, issue warrants for the
18 purpose of conducting administrative inspections authorized by any law or
19 regulation administered by the ~~department~~ division;

20 (2) A warrant shall issue only upon an affidavit of a ~~department~~
21 division official, employee, or agent having knowledge of the facts alleged,
22 sworn to before the judge or magistrate and establishing the grounds for
23 issuing the warrant. If the judge or magistrate is satisfied that grounds for
24 the application exist or that there is probable cause to believe they exist,
25 he or she shall issue a warrant identifying the facility to be inspected, and
26 the purpose of the inspection. The warrant shall:

27 (A) State the grounds for its issuance and the name of
28 each person whose affidavit has been taken in support thereof;

29 (B) Be directed to a ~~department~~ division officer or
30 employee;

31 (C) Command the person to whom it is directed to inspect
32 the area, premises, building, or conveyance identified for the purpose
33 specified;

34 (D) Specifically identify any documents or samples to be
35 gathered during the inspection;

36 (E) Direct that it be served during normal business hours

1 unless emergency or extraordinary circumstances compel otherwise; and

2 (F) Designate the judge or magistrate to whom it shall be
3 returned;

4 (3) If appropriate, the warrant may authorize the review and
5 copying of documents which may be relevant to the purpose of the inspection.
6 If documents must be seized for the purpose of copying, the person serving
7 the warrant shall prepare an inventory of documents taken. The inventory
8 shall be made in the presence of the person executing the warrant and of the
9 person from whose possession or facility the documents were taken, if
10 present, or in the presence of at least one (1) credible person other than
11 the person executing the warrant. A copy of the inventory shall be delivered
12 to the person from whom or from whose facility the documents were taken. The
13 seized documents shall be copied as soon as feasible under circumstances
14 preserving their authenticity, then returned to the person from whom the
15 documents were taken;

16 (4) The warrant may authorize the taking of samples of materials
17 generated, stored, or treated at the facility, or of the water, air, or soils
18 within the facility's control or that may have been affected by the
19 facility's operations. The person executing the warrant shall prepare an
20 inventory of all samples taken. In any inspection conducted pursuant to an
21 administrative warrant in which such samples are taken, the ~~department~~
22 division shall make split samples available to the person whose facility is
23 being inspected;

24 (5) A warrant issued pursuant to this section must be executed
25 and returned within ten (10) days of its date unless, upon a showing of a
26 need for additional time, the court orders otherwise. The return of the
27 warrant shall be made promptly, accompanied by a written inventory of any
28 documents or samples taken;

29 (6) The judge or magistrate who has issued a warrant shall
30 attach thereto a copy of the return and all papers returnable in connection
31 therewith and file them with the clerk of the circuit court for the judicial
32 district in which the inspection was made;

33 (7) This subsection does not prevent the inspection without a
34 warrant of books and records pursuant to an administrative subpoena issued in
35 accordance with duly adopted administrative procedures; and

36 (8) A copy of the warrant and all supporting affidavits shall be

1 provided to the person served, or left at the entry of the facility
2 inspected.

3 (e) Administrative Inspection Warrants – Exceptions. Notwithstanding
4 the previous subsection, an administrative warrant shall not be required for
5 any inspection, including the review and copying of documents and taking of
6 samples, under the following circumstances:

7 (1) For pervasively regulated facilities or activities as
8 defined by this section whose permit, license, certification, or operational
9 approval from the ~~department~~ division provides notice that the ~~department~~
10 division may inspect regulated activities to assure compliance. If the
11 ~~department~~ division has reason to believe that a violation of any law has or
12 is occurring, the basis for such belief shall be communicated at the time of
13 the inspection;

14 (2) If the owner, operator, or agent in charge of the facility
15 consents;

16 (3) In situations presenting imminent danger to public health
17 and safety or the environment;

18 (4) In situations involving inspection of conveyances, if there
19 is reasonable cause to believe that the mobility of the conveyance makes it
20 impracticable to obtain a warrant;

21 (5) In any other exception or emergency circumstance when time
22 or opportunity to apply for a warrant is lacking;

23 (6) In situations involving conditions that may be observed in
24 an open field, from an area practically open to public access, or in plain
25 view; or

26 (7) In all other situations in which a warrant is not
27 constitutionally required.

28 (f) Penalties. Any willful and unjustified refusal of right of entry
29 and inspection to ~~department~~ division personnel as set out in this section
30 shall constitute a misdemeanor subject to a fine of up to twenty-five
31 thousand dollars (\$25,000) or civil penalties up to twenty-five thousand
32 dollars (\$25,000).

33

34 SECTION 2437. Arkansas Code § 8-1-201 is amended to read as follows:
35 8-1-201. Legislative intent.

36 (a) The General Assembly recognizes that since 1949, when the

1 precursor of the Arkansas Pollution Control and Ecology Commission was first
2 created, significant changes have occurred in the responsibilities charged to
3 the state's environmental agency. This subchapter intends to clarify and
4 supersede prior law that does not comport with this delineation of
5 responsibility between the ~~Arkansas Department~~ Division of Environmental
6 Quality and the commission.

7 (b) Further, in delineating the responsibility between the ~~department~~
8 division and the commission, it is the intent of the General Assembly neither
9 to expand nor to diminish any rights of property owners of this state under
10 Arkansas Constitution, Article 2, § 22.

11
12 SECTION 2438. Arkansas Code § 8-1-202 is amended to read as follows:

13 8-1-202. Powers of the Director of the ~~Arkansas Department~~ Division of
14 Environmental Quality.

15 ~~(a) The executive head of the Arkansas Department of Environmental~~
16 ~~Quality shall be the Director of the Arkansas Department of Environmental~~
17 ~~Quality, who shall be appointed by the Governor with the consent of the~~
18 ~~Senate. The director shall serve at the pleasure of the Governor.~~

19 ~~(b)(1)(a)~~ The Director of the Division of Environmental
20 Quality shall be the executive officer and active administrator of all
21 pollution control activities in the state.

22 ~~(2)(b)~~ As such, the director's duties shall include:

23 ~~(A)(i)(1)(A)~~ The administration of permitting, licensing,
24 certification, and grants programs deemed necessary to protect the
25 environmental integrity of the state.

26 ~~(ii)(B)~~ The director, or his or her delegatee within
27 his or her staff, shall serve as the issuing authority for the state;

28 ~~(B)(i)(2)(A)~~ Initiation and settlement of civil or
29 administrative enforcement actions to compel compliance with laws, orders,
30 and regulations charged to the responsibility of the ~~department~~ Division of
31 Environmental Quality.

32 ~~(ii)(B)~~ In this regard, the director may propose the
33 assessment of civil penalties as provided by law and take all actions
34 necessary to collect such penalties;

35 ~~(C)(3)~~ Issuance of orders in such circumstances that
36 reasonably require emergency measures to be taken to protect the environment

1 or the public health and safety, except to the extent that the matter
2 involved is reserved to the jurisdiction or orders of the Arkansas Pollution
3 Control and Ecology Commission for rulemaking procedures in § 8-4-202;

4 ~~(D)~~(4) Day-to-day administration of all activities that
5 the ~~department~~ division is empowered by law to perform, including, but not
6 limited to, the employment and supervision of such technical, legal, and
7 administrative staff, within approved appropriations and with the approval of
8 the Secretary of the Department of Energy and Environment, as is necessary to
9 carry out the responsibilities vested with the ~~department~~ division;

10 ~~(E)~~(5) Providing technical and legal expertise and
11 assistance in the field of environmental protection to other agencies and
12 subdivisions of the state as appropriate;

13 ~~(F)~~(6) Day-to-day administration of environmental programs
14 delegated to the State of Arkansas by the responsible agencies of the United
15 States Government;

16 ~~(G)~~(7) The supervision of the Arkansas Energy Office of
17 the ~~Arkansas Department~~ Division of Environmental Quality under the Arkansas
18 Energy Reorganization and Policy Act of 1981, § 15-10-201 et seq.; ~~and~~

19 ~~(H)~~(8) Any other power or duty specifically vested with
20 the director or ~~department~~ division by the General Assembly or the secretary;
21 and

22 (9) The supervision of the Division of Environmental
23 Preservation or the successor division, office, or unit responsible for
24 reviewing and making specific ecologically oriented recommendations on all
25 plans, programs, and projects of all other state departments, divisions,
26 agencies, and commissions and on all federal plans, programs, and projects
27 affecting this state.

28
29 SECTION 2439. Arkansas Code § 8-1-203(b)(1)(A), concerning the powers
30 and responsibilities of the Arkansas Pollution Control and Ecology
31 Commission, is amended to read as follows:

32 (1)(A) Promulgation of rules and regulations implementing the
33 substantive statutes charged to the ~~Arkansas Department~~ Division of
34 Environmental Quality for administration.

35
36 SECTION 2440. Arkansas Code § 8-1-203(b)(4), concerning the powers and

1 responsibilities of the Arkansas Pollution Control and Ecology Commission, is
2 amended to read as follows:

3 (4) In the case of permitting or grants decisions, providing the
4 right to appeal a permitting or grants decision rendered by the Director of
5 the ~~Arkansas Department~~ Division of Environmental Quality or his or her
6 delegatee;

7

8 SECTION 2441. Arkansas Code § 8-1-203(b)(7), concerning the powers and
9 responsibilities of the Arkansas Pollution Control and Ecology Commission, is
10 amended to read as follows:

11 (7) Make recommendations to the director regarding overall
12 policy and administration of the ~~department~~ division. However, the director
13 shall always remain within the plenary authority of the Governor; and

14

15 SECTION 2442. Arkansas Code § 8-1-204 is amended to read as follows:
16 8-1-204. Administrative law judge.

17 (a) The Arkansas Pollution Control and Ecology Commission shall employ
18 a full-time administrative law judge to perform functions and duties that the
19 commission shall direct and, in particular, to advise the commission on
20 matters of law and procedure that may arise during the conduct of commission
21 duties and responsibilities as outlined in §§ 8-1-203, 8-4-201, 8-4-202, 8-4-
22 311, 8-5-205, and 8-6-207, or as otherwise provided by law.

23 (b) The administrative law judge shall be selected and hired by the
24 commission and shall be independent of and not an employee of the ~~Arkansas~~
25 ~~Department~~ Division of Environmental Quality.

26 (c) The expenses of the administrative law judge shall be paid from
27 the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund or
28 from other sources as provided by law.

29 (d) The office space for the administrative law judge shall be at a
30 location other than the offices of the ~~department~~ division.

31 (e) An administrative assistant II shall be supervised by and provide
32 assistance to the administrative law judge authorized in this section.

33 (f) The disbursing officer of the ~~department~~ division shall disburse
34 the funds appropriated for the commission's administrative law judge.

35

36 SECTION 2443. Arkansas Code § 8-1-302(2), concerning the definition of

1 "director" under the laws regarding the Arkansas Pollution Control and
2 Ecology Commission and the Director of the Arkansas Department of
3 Environmental Quality, is repealed.

4 ~~(2) "Director" means the Director of the Arkansas Department of~~
5 ~~Environmental Quality;~~

6
7 SECTION 2444. Arkansas Code § 8-1-305(1)(C), concerning exceptions to
8 the environmental audit privilege, is amended to read as follows:

9 (C) A determination, a permit, or an order made or issued
10 by the commission or the Director of the ~~Arkansas Department~~ Division of
11 Environmental Quality; or

12

13 SECTION 2445. Arkansas Code § 8-1-307(a)(3)(C), concerning disclosure
14 in civil or administrative proceedings, is amended to read as follows:

15 (C) A determination, permit, or order issued by the
16 commission or the Director of the ~~Arkansas Department~~ Division of
17 Environmental Quality; and

18

19 SECTION 2446. Arkansas Code § 8-1-307(b)(2)(A), concerning disclosure
20 in civil or administrative proceedings, is amended to read as follows:

21 (2)(A) In the event additional time is required to prepare a
22 permit application, the person shall, within ninety (90) days, submit a
23 schedule to the ~~Arkansas Department~~ Division of Environmental Quality that
24 identifies the activities required to complete the application, and, if the
25 schedule is acceptable to the ~~department~~ division, the filing of the
26 application pursuant to the submitted schedule shall constitute reasonable
27 diligence to achieve compliance for a failure to obtain a required permit.

28

29 SECTION 2447. Arkansas Code § 8-2-202 is amended to read as follows:
30 8-2-202. Purpose.

31 This subchapter authorizes the ~~Arkansas Department~~ Division of
32 Environmental Quality to establish and administer an environmental laboratory
33 accreditation program so that laboratories that submit data and analyses to
34 the ~~department~~ division may be accredited by the ~~department~~ division as
35 having demonstrated acceptable compliance with laboratory standards so that
36 the validity of scientific data submitted to the ~~department~~ division may be

1 further assured.

2

3 SECTION 2448. Arkansas Code § 8-2-203(1) and (2), concerning the
4 definition of "acceptable results" and "accreditation" under the
5 Environmental Laboratory Accreditation Program Act, are amended to read as
6 follows:

7 (1) "Acceptable results" means results within limits determined
8 on the basis of statistical procedures as prescribed by the ~~Arkansas~~
9 ~~Department~~ Division of Environmental Quality;

10 (2) "Accreditation" means the process by which the ~~department~~
11 division recognizes a laboratory as meeting certain predetermined
12 qualifications or standards, thereby accrediting the laboratory;

13

14 SECTION 2449. Arkansas Code § 8-2-203(4), concerning the definition of
15 "certificate" under the Environmental Laboratory Accreditation Program Act,
16 is amended to read as follows:

17 (4) "Certificate" means a document issued by the ~~department~~
18 division showing the analytes for which a laboratory has received
19 accreditation;

20

21 SECTION 2450. Arkansas Code § 8-2-203(7)(A), concerning the definition
22 of "laboratory" under the Environmental Laboratory Accreditation Program Act,
23 is amended to read as follows:

24 (7)(A) "Laboratory" means any facility that performs analyses to
25 determine the chemical, physical, or biological properties of air, water,
26 solid waste, hazardous waste, wastewater, or soil or subsoil materials or
27 that performs any other analyses related to environmental quality evaluations
28 required by the ~~department~~ division or which will be submitted to the
29 ~~department~~ division.

30

31 SECTION 2451. Arkansas Code § 8-2-204(a), concerning the powers and
32 duties of the Arkansas Department of Environmental Quality, is amended to
33 read as follows:

34 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
35 have the following powers and duties under this subchapter:

36 (1) To establish and administer the Environmental Laboratory

1 Accreditation Program for laboratories applying for accreditation by the
2 ~~department~~ division;

3 (2) To enforce the provisions of this subchapter and all laws,
4 rules, and regulations relating to the program and to environmental testing;

5 (3) To issue, deny, revoke, or suspend the accreditation of a
6 laboratory for cause; and

7 (4) To refuse to accept analytical results from a laboratory
8 when the ~~department~~ division reasonably determines that the results do not
9 meet reasonable criteria for validation, regardless of whether the laboratory
10 is accredited.

11
12 SECTION 2452. Arkansas Code § 8-2-206 is amended to read as follows:

13 8-2-206. Accreditation – Criteria and procedure.

14 (a)(1)(A)(i) All consulting laboratories performing analyses for which
15 results are to be submitted to the ~~Arkansas Department~~ Division of
16 Environmental Quality shall obtain a laboratory accreditation under this
17 subchapter.

18 (ii) An analyte, method, or matrix for which the
19 Environmental Laboratory Accreditation Program does not provide accreditation
20 shall be evaluated by the ~~department~~ division for acceptance.

21 (B) The ~~department~~ division, in its sole discretion, may
22 refuse to accept results of analyses performed by a consulting laboratory
23 that does not hold a laboratory accreditation under the program for the
24 reason that the laboratory is not accredited.

25 (2) Accreditation for laboratories other than consulting
26 laboratories shall not be mandatory.

27 (b) Applications for accreditation shall be made in the form and
28 manner established by the ~~department~~ division.

29 (c) Upon receipt of an application for accreditation, the ~~department~~
30 division shall evaluate and act upon the application in accordance with the
31 following procedures and criteria:

32 (1)(A) The laboratory must successfully complete an evaluation.

33 (B) The ~~department~~ division shall establish evaluation
34 criteria on proper analytical techniques, quality assurance, recordkeeping,
35 and reporting methods and procedures and facilities, equipment, and personnel
36 requirements; and

1 (2) The laboratory must submit to the ~~department~~ division
2 acceptable results from its analysis of proficiency test samples for the
3 specific analytes, methods, and matrices selected for accreditation.

4 (d) Upon completion of the laboratory evaluation and the review of the
5 proficiency test sample results, the ~~department~~ division shall notify the
6 laboratory of its determination to award or deny accreditation.

7 (e)(1) If the adequacy of the laboratory's capability and its
8 recordkeeping have been sufficiently established to the satisfaction of the
9 ~~department~~ division, a certificate will be issued to the laboratory for the
10 evaluated categories of analytes, methods, and matrices.

11 (2) If accreditation is denied, the ~~department~~ division shall
12 set forth, in writing, the reasons for denial.

13
14 SECTION 2453. Arkansas Code § 8-2-207(b), concerning the
15 accreditation, duration, and renewal of a certificate of accreditation, is
16 amended to read as follows:

17 (b) Accreditation may be renewed for additional periods of one (1)
18 year's duration upon application for renewal made to the ~~Arkansas Department~~
19 Division of Environmental Quality.

20
21 SECTION 2454. The introductory language of Arkansas Code § 8-2-208(a),
22 concerning laboratory accreditation and revocation by the Arkansas Department
23 of Environmental Quality, is amended to read as follows:

24 (a) After a laboratory is accredited, the laboratory's accreditation
25 may be revoked or suspended by the ~~Arkansas Department~~ Division of
26 Environmental Quality for:

27
28 SECTION 2455. Arkansas Code § 8-2-208(b)(1) and (2), concerning
29 laboratory accreditation and revocation by the Arkansas Department of
30 Environmental Quality, are amended to read as follows:

31 (1) To knowingly falsify any data submitted to the ~~department~~
32 division or any data related to laboratory analysis;

33 (2) To knowingly make any false statement, representation, or
34 certification in any application, record, report, plan, or other document
35 issued by or sent to the ~~department~~ division or related to laboratory
36 analysis;

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SECTION 2456. Arkansas Code § 8-2-209(a)(1), concerning fees collected by the Arkansas Department of Environmental Quality, is amended to read as follows:

(a)(1) The ~~Arkansas Department~~ Division of Environmental Quality may assess and collect reasonable fees from participating laboratories for the administrative costs of the Environmental Laboratory Accreditation Program.

SECTION 2457. Arkansas Code § 8-3-102(b)(1), concerning ambient air quality and hydrogen sulfide, is amended to read as follows:

(b)(1) Before the commission proposes an ambient standard or regulatory mechanism concerning hydrogen sulfide that will result in more stringent or restrictive control provisions than are currently provided by ~~Arkansas Department~~ Division of Environmental Quality permitting practices, the commission shall direct the ~~department~~ division to prepare, with the assistance and cooperation of state agencies with appropriate expertise, an economic impact and environmental benefit analysis justifying more stringent or restrictive operating conditions.

SECTION 2458. Arkansas Code § 8-3-102(b)(2)(C), concerning ambient air quality and hydrogen sulfide, is amended to read as follows:

(C) Cost to the regulated community and the ~~department~~ division.

SECTION 2459. Arkansas Code § 8-3-103(b), concerning hydrogen sulfide emissions, is amended to read as follows:

(b) Method of Prediction. All estimates of ambient concentrations required under this section shall be performed by the ~~Arkansas Department~~ Division of Environmental Quality or performed by the facility and approved by the ~~department~~ division based on the facility's potential to emit hydrogen sulfide, the applicable air quality models, databases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1986), supplement A (1987) and supplement B (1993).

SECTION 2460. Arkansas Code § 8-3-103(d)(2)(C), concerning hydrogen sulfide emissions, is amended to read as follows:

1 (C) A facility that is not subject to one (1) of the
2 technology limits listed in subdivision (d)(2)(B) of this section and that
3 wishes to apply appropriate hydrogen sulfide control technology may apply to
4 the ~~department~~ division for a determination of appropriateness at any time,
5 but no later than ninety (90) days after a determination that the ambient
6 standard has been exceeded. The application shall be made on such forms and
7 contain such information as the ~~department~~ division may require and shall
8 include a reasonable time schedule for implementation. When making a
9 determination of appropriateness, the ~~department~~ division shall follow the
10 procedures used for making permitting decisions, including public
11 participation requirements.

12
13 SECTION 2461. Arkansas Code § 8-3-202(3), concerning the definition of
14 "state plan" under the laws regarding state emission plans, is amended to
15 read as follows:

16 (3) "State plan" means a plan to establish and enforce carbon
17 dioxide emission control measures that the ~~Arkansas Department~~ Division of
18 Environmental Quality may adopt to implement the obligations of the state
19 under the federal emission guidelines.

20
21 SECTION 2462. Arkansas Code § 8-3-203(a)(1), concerning the state
22 emission plan's being dependent on federal emission guidelines, is amended to
23 read as follows:

24 (a)(1) This subchapter does not require the ~~Arkansas Department~~
25 Division of Environmental Quality to develop a state plan to regulate carbon
26 dioxide emissions from existing fossil-fuel-fired electric generating units
27 under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d).

28
29 SECTION 2463. Arkansas Code § 8-3-204 is amended to read as follows:

30 8-3-204. Appeal of state plan – Adjudicatory process.

31 (a) If the ~~Arkansas Department~~ Division of Environmental Quality
32 proposes to finalize a state plan submittal for review and approval by the
33 United States Environmental Protection Agency, the ~~department~~ division shall
34 comply with the procedural requirements for notice and public comment
35 specified in § 8-4-317.

36 (b)(1) Only a person or an organization that submits comments on the

1 record during the public comment period has standing to appeal the final
2 decision of the ~~department~~ division to the Arkansas Pollution Control and
3 Ecology Commission upon written application made within thirty (30) days
4 after the service of notice made under § 8-4-317(b)(2)(A).

5 (2) An appeal under subdivision (b)(1) of this section shall be
6 processed as a permit appeal under § 8-4-205.

7
8 SECTION 2464. Arkansas Code § 8-3-205(a), concerning assessing the
9 effects of the state emission plan, is amended to read as follows:

10 (a) Before preparing a petition to initiate rulemaking for the
11 development of regulations implementing a state plan for regulating carbon
12 dioxide emissions from covered electric generating units, the ~~Arkansas~~
13 ~~Department~~ Division of Environmental Quality shall prepare a report that
14 takes into account the factors specified in § 8-4-312 and the Clean Air Act,
15 42 U.S.C. § 7401 et seq., as applicable.

16
17 SECTION 2465. The introductory language of Arkansas Code § 8-3-
18 205(b)(1), concerning assessing the effects of the state emission plan, is
19 amended to read as follows:

20 (b)(1) In addition to the report specified in subsection (a) of this
21 section, the ~~department~~ division shall coordinate with the Arkansas Public
22 Service Commission in the preparation of a report that assesses the effects
23 of the state plan on the electric power sector, including without limitation:

24
25 SECTION 2466. The introductory language of Arkansas Code § 8-3-
26 205(b)(2), concerning assessing the effects of the state emission plan, is
27 amended to read as follows:

28 (2) The ~~department~~ division shall further coordinate with the
29 Arkansas Economic Development Commission in the preparation of a report that
30 assesses the effects of the state plan on the electricity consumers within
31 the state, including without limitation:

32
33 SECTION 2467. Arkansas Code § 8-3-205(c), concerning assessing the
34 effects of the state emission plan, is amended to read as follows:

35 (c) The reports required by this section shall be included with any
36 petition filed by the ~~department~~ division to initiate rulemaking for

1 regulations that implement a state plan for regulating carbon dioxide
2 emissions from covered electric generating units.

3
4 SECTION 2468. The introductory language of Arkansas Code § 8-3-206(a),
5 concerning submission of the state emission plan, is amended to read as
6 follows:

7 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
8 not submit a state plan to the United States Environmental Protection Agency
9 under § 8-3-207 if the state plan:

10
11 SECTION 2469. The introductory language of Arkansas Code § 8-3-206(b),
12 concerning submission of the state emission plan, is amended to read as
13 follows:

14 (b) The ~~department~~ division shall not submit a state plan to the
15 United States Environmental Protection Agency until:

16
17 SECTION 2470. Arkansas Code § 8-3-207(a), concerning procedures for
18 approval of the state emission plan, is amended to read as follows:

19 (a) Not later than fifteen (15) days after adopting a state plan, the
20 ~~Arkansas Department~~ Division of Environmental Quality shall transmit to the
21 cochairs of the Legislative Council a copy of the state plan and the
22 accompanying report developed under § 8-3-205.

23
24 SECTION 2471. Arkansas Code § 8-3-207(c), concerning procedures for
25 approval of the state emission plan, is amended to read as follows:

26 (c) If the Legislative Council fails to approve a state plan under
27 subsection (b) of this section, the ~~department~~ division may submit a revised
28 version of the state plan, with an accompanying revised report, to the
29 cochairs of the Legislative Council for approval under this section.

30
31 SECTION 2472. Arkansas Code § 8-3-207(d)(1), concerning procedures for
32 approval of the state emission plan, is amended to read as follows:

33 (1) Sufficient time has passed for the Legislative Council to
34 consider a state plan submitted by the ~~department~~ division for legislative
35 approval;

36

1 SECTION 2473. Arkansas Code § 8-3-208 is amended to read as follows:
2 8-3-208. Rate and reliability safety valve.

3 (a) If a state plan approved under this subchapter would result in a
4 significant increase in the total electric or natural gas bill annually for
5 any customer class, the ~~Arkansas Department~~ Division of Environmental Quality
6 shall reopen the proceeding under § 8-3-204 and, after the opportunity for a
7 hearing, revise the state plan to satisfy § 8-3-206(a)(1) and transmit the
8 revised state plan to the cochaIRS of the Legislative Council for approval
9 under § 8-3-207.

10 (b)(1) Each year the ~~department~~ division shall evaluate the impact of
11 electricity rate increases on the energy-intensive-trade-exposed
12 manufacturers and the resulting greenhouse gas leakage.

13 (2) If increased electric rates are found to be contributing to
14 increased manufacturing greenhouse gas leakage, the ~~department~~ division shall
15 reopen the proceeding under § 8-3-204 and, after the opportunity for a
16 hearing, revise the state plan to avoid manufacturing greenhouse gas leakage
17 and transmit the revised state plan to the cochaIRS of the Legislative
18 Council for approval under § 8-3-207.

19
20 SECTION 2474. Arkansas Code § 8-4-103(a)(1)(A), concerning criminal,
21 civil, and administrative penalties of the Arkansas Pollution Control and
22 Ecology Commission and the Arkansas Department of Environmental Quality, is
23 amended to read as follows:

24 (1)(A) Any person that violates any provision of this chapter,
25 that commits any unlawful act under it, or that violates any rule,
26 regulation, or order of the Arkansas Pollution Control and Ecology Commission
27 or the ~~Arkansas Department~~ Division of Environmental Quality shall be guilty
28 of a misdemeanor.

29
30 SECTION 2475. Arkansas Code § 8-4-103(a)(2)(A)(i), concerning
31 criminal, civil, and administrative penalties of the Arkansas Pollution
32 Control and Ecology Commission and the Arkansas Department of Environmental
33 Quality, is amended to read as follows:

34 (i) Violate any provision of this chapter, commit
35 any unlawful act under it, or violate any rule, regulation, or order of the
36 commission or ~~department~~ the Division of Environmental Quality and leave the

1 state or remove his or her person from the jurisdiction of this state;

2
3 SECTION 2476. The introductory language of Arkansas Code § 8-4-103(b),
4 concerning criminal, civil, and administrative penalties of the Arkansas
5 Pollution Control and Ecology Commission and the Arkansas Department of
6 Environmental Quality, is amended to read as follows:

7 (b) Civil Penalties. The ~~department~~ Division of Environmental Quality
8 may institute a civil action in any court of competent jurisdiction to
9 accomplish any of the following:

10
11 SECTION 2477. The introductory language of Arkansas Code § 8-4-
12 103(b)(3), concerning criminal, civil, and administrative penalties of the
13 Arkansas Pollution Control and Ecology Commission and the Arkansas Department
14 of Environmental Quality, is amended to read as follows:

15 (3) Recover all costs, expenses, and damages to the ~~department~~
16 Division of Environmental Quality and any other agency or division of the
17 state in enforcing or effectuating the provisions of this chapter, including,
18 but not limited to, natural resource damages;

19
20 SECTION 2478. Arkansas Code § 8-4-103(c)(2)(C), concerning criminal,
21 civil, and administrative penalties of the Arkansas Pollution Control and
22 Ecology Commission and the Arkansas Department of Environmental Quality, is
23 amended to read as follows:

24 (C) These administrative procedures may also be used to
25 recover all costs, expenses, and damages to the ~~department~~ Division of
26 Environmental Quality and any other agency or subdivision of the state in
27 enforcing or effectuating the provisions of this chapter, including, but not
28 limited to, natural resource damages.

29
30 SECTION 2479. Arkansas Code § 8-4-103(d)(1)(A), concerning criminal,
31 civil, and administrative penalties of the Arkansas Pollution Control and
32 Ecology Commission and the Arkansas Department of Environmental Quality, is
33 amended to read as follows:

34 (d)(1)(A) Before assessing a civil penalty under subsection (c) of
35 this section, the Director of the ~~Arkansas Department~~ Division of
36 Environmental Quality shall provide public notice of and a reasonable

1 opportunity to comment on the proposed issuance of the order.

2
3 SECTION 2480. Arkansas Code § 8-4-103(f)(1), concerning criminal,
4 civil, and administrative penalties of the Arkansas Pollution Control and
5 Ecology Commission and the Arkansas Department of Environmental Quality, is
6 amended to read as follows:

7 (f)(1) All moneys collected as reimbursement for expenses, costs, and
8 damages to the ~~department~~ Division of Environmental Quality shall be
9 deposited into the operating fund of the ~~department~~ Division of Environmental
10 Quality.

11
12 SECTION 2481. Arkansas Code § 8-4-103(f)(3)(B) and (C), concerning
13 criminal, civil, and administrative penalties of the Arkansas Pollution
14 Control and Ecology Commission and the Arkansas Department of Environmental
15 Quality, are amended to read as follows:

16 (B) The violator may provide in-kind services or cash
17 contributions as directed by the ~~department~~ Division of Environmental Quality
18 by utilizing the violator's own expertise, by hiring and compensating
19 subcontractors to perform the services, by arranging and providing financing
20 for the services, or by other financial arrangements initiated by the
21 ~~department~~ Division of Environmental Quality in which the violator and the
22 ~~department~~ Division of Environmental Quality retain no monetary benefit,
23 however remote.

24 (C) The services shall not duplicate or augment services
25 already provided by the ~~department~~ Division of Environmental Quality through
26 appropriations of the General Assembly.

27
28 SECTION 2482. Arkansas Code § 8-4-103(1)(3)(A), concerning criminal,
29 civil, and administrative penalties of the Arkansas Pollution Control and
30 Ecology Commission and the Arkansas Department of Environmental Quality, is
31 amended to read as follows:

32 (3)(A) The ~~department~~ Division of Environmental Quality may
33 seize any cleaning agent held for sale or distribution in violation of this
34 chapter.

35
36 SECTION 2483. Arkansas Code § 8-4-104(b)-(g), concerning the members

1 of the Arkansas Pollution Control and Ecology Commission, are amended to read
2 as follows:

3 (b) The Arkansas Pollution Control and Ecology Commission shall be
4 composed of ~~thirteen (13)~~ fifteen (15) members:

5 (1)(A) The Governor, by and with the advice and consent of the
6 Senate, shall appoint seven (7) members.

7 (B) Each congressional district shall be represented on
8 the Arkansas Pollution Control and Ecology Commission by at least one (1)
9 member, and no district shall have more than two (2) members of the seven (7)
10 appointees.

11 (C)(i) The Governor shall not appoint a member to
12 represent any specific or special interest group, organization, or
13 philosophy.

14 (ii) However, in making appointments to the Arkansas
15 Pollution Control and Ecology Commission, the Governor shall appoint
16 individuals who have knowledge or expertise in matters within the
17 jurisdiction of the Arkansas Pollution Control and Ecology Commission,
18 including government, business or industry, agriculture and livestock,
19 forestry, health, ecology, recreation and tourism, and geology.

20 (D) Each member appointed by the Governor shall be
21 appointed for a term of four (4) years; and

22 (2) The other ~~six (6)~~ eight (8) members of the Arkansas
23 Pollution Control and Ecology Commission shall be:

24 (A) ~~The Director~~ Secretary of the Department of Health, or
25 his or her designee; ~~and~~

26 (B) ~~(i) The directors of the Arkansas State Game and Fish
27 Commission, the Arkansas Forestry Commission, the Arkansas Natural Resources
28 Commission, the Oil and Gas Commission, and the Arkansas Geological Survey,
29 The Secretary of the Department of Agriculture, or his or her designee;~~

30 ~~(ii) Any director specified in subdivision
31 (b)(2)(B)(i) of this section may designate the agency's deputy director or
32 assistant director to serve in lieu of the director.~~

33 (C) The Secretary of the Department of Energy and
34 Environment, or his or her designee;

35 (D) The Director of the Arkansas State Game and Fish
36 Commission, or his or her designee;

1 (E) The State Forester, or his or her designee on behalf
2 of the Arkansas Forestry Commission;

3 (F) The Director of the Oil and Gas Commission, or his or
4 her designee;

5 (G) The Director of the Arkansas Natural Resources
6 Commission, or his or her designee; and

7 (H) The State Geologist, or his or her designee, on behalf
8 of the Arkansas Geological Survey.

9 (c) Elected city, county, and state officials shall not serve on the
10 Arkansas Pollution Control and Ecology Commission after the expiration of any
11 current member's term.

12 (d) In the event of a vacancy in the membership of the Arkansas
13 Pollution Control and Ecology Commission, the Governor shall appoint a person
14 to fill the vacancy temporarily who shall serve until the next meeting of the
15 Senate, when some person shall be appointed by the Governor, by and with the
16 consent and approval of the Senate, to serve the remainder of the unexpired
17 term.

18 (e)(1) The chair and vice chair shall be elected annually.

19 (2) The members of the Arkansas Pollution Control and Ecology
20 Commission representing the state agencies shall not serve as chair or vice
21 chair.

22 (f)(1)(A) The Arkansas Pollution Control and Ecology Commission shall
23 hold at least four (4) regular meetings in each calendar year at times and
24 places to be fixed by the Arkansas Pollution Control and Ecology Commission
25 and such other meetings as may be necessary.

26 (B) Special meetings may be called at the discretion of
27 the chair, and they shall be called by him or her upon written request of two
28 (2) members of the Arkansas Pollution Control and Ecology Commission by
29 delivery of written notice to each member of the Arkansas Pollution Control
30 and Ecology Commission.

31 (2) Nine (9) members of the Arkansas Pollution Control and
32 Ecology Commission shall constitute a quorum to transact business in both
33 regular and special meetings.

34 (g)(1) Each member of the Arkansas Pollution Control and Ecology
35 Commission representing state agencies shall receive no additional salary or
36 per diem for services as a member of the Arkansas Pollution Control and

1 Ecology Commission but may receive expense reimbursement in accordance with §
2 25-16-901 et seq.

3 (2) The other seven (7) members appointed by the Governor may
4 receive expense reimbursement and stipends in accordance with § 25-16-901 et
5 seq.

6
7 SECTION 2484. Arkansas Code § 8-4-105 is repealed.

8 ~~8-4-105. Director of the Arkansas Department of Environmental Quality.~~

9 ~~(a)(1) The executive head of the Arkansas Department of Environmental~~
10 ~~Quality shall be the Director of the Arkansas Department of Environmental~~
11 ~~Quality, who shall be appointed by the Governor with the advice and consent~~
12 ~~of the Senate, and shall serve at the pleasure of the Governor.~~

13 ~~(2) The director, with the advice and consent of the Governor,~~
14 ~~shall appoint the heads of the divisions of the department, including the~~
15 ~~Division of Water Pollution Control, the Division of Air Pollution Control,~~
16 ~~the Division of Solid Waste Management, the Division of Environmental~~
17 ~~Preservation, the Division of Administration, and such other divisions as may~~
18 ~~be established.~~

19 ~~(3) All of the personnel of the department shall be employed by~~
20 ~~and serve at the pleasure of the director. However, nothing in this~~
21 ~~subdivision (a)(3) shall be construed to reduce any right which an employee~~
22 ~~shall have under any civil service or merit system.~~

23 ~~(b)(1) The director shall be the executive officer and active~~
24 ~~administrator of all pollution control activities.~~

25 ~~(2) All of the powers of the Arkansas Pollution Control and~~
26 ~~Ecology Commission under §§ 8-4-201(b)(5), 8-4-203, and 8-4-204 relating to~~
27 ~~plans and specifications for disposal systems and permits for the discharge~~
28 ~~of sewage, industrial wastes, or other wastes into the waters of the state~~
29 ~~are vested in the director.~~

30

31 SECTION 2485. Arkansas Code § 8-4-106 is amended to read as follows:

32 8-4-106. Technical and other services and public assistance.

33 (a) Technical, scientific, legal, or other services may be performed,
34 insofar as practicable, by personnel of other state agencies and educational
35 institutions and the Attorney General. However, the personnel of these state
36 agencies shall receive no additional salary or wages for their services to

1 the ~~Arkansas Department~~ Division of Environmental Quality.

2 (b) The Director of the ~~Arkansas Department~~ Division of Environmental
3 Quality, however, may employ and compensate, within appropriations available,
4 consultants and such assistants and employees as may be necessary to carry
5 out the provisions of this chapter and prescribe their powers and duties.

6
7 SECTION 2486. Arkansas Code § 8-4-107 is amended to read as follows:

8 8-4-107. Prosecution of public nuisance actions.

9 In any legal action arising from, relating to, or including violations
10 of laws or regulations charged to the enforcement authority of the ~~Arkansas~~
11 ~~Department~~ Division of Environmental Quality that also alleges the existence
12 of a public nuisance at common law, the Attorney General or the ~~department~~
13 division may serve as the instrumentality of the state authorized to initiate
14 and prosecute such action.

15
16 SECTION 2487. The introductory language of Arkansas Code § 8-4-201(a),
17 concerning the powers and duties of the Arkansas Department of Environmental
18 Quality and the Arkansas Pollution Control and Ecology Commission, is amended
19 to read as follows:

20 (a) The ~~Arkansas Department~~ Division of Environmental Quality or its
21 successor is given and charged with the following powers and duties:

22
23 SECTION 2488. Arkansas Code § 8-4-201(b)(1)(A), concerning the powers
24 and duties of the Arkansas Department of Environmental Quality and the
25 Arkansas Pollution Control and Ecology Commission, is amended to read as
26 follows:

27 (1)(A) Promulgation of rules and regulations, including water
28 quality standards and the classification of the waters of the state and
29 moratoriums or suspensions of the processing of types or categories of
30 permits, implementing the substantive statutes charged to the ~~department~~
31 division for administration.

32
33 SECTION 2489. Arkansas Code § 8-4-201(b)(3) and (4), concerning the
34 powers and duties of the Arkansas Department of Environmental Quality and the
35 Arkansas Pollution Control and Ecology Commission, are amended to read as
36 follows:

1 (3) Promulgation of rules and regulations governing
2 administrative procedures for challenging or contesting ~~department~~ division
3 actions;

4 (4) In the case of permitting or grants decisions, provide the
5 right to appeal a permitting or grants decision rendered by the Director of
6 the ~~Arkansas Department~~ Division of Environmental Quality or his or her
7 delegatee;

8
9 SECTION 2490. Arkansas Code § 8-4-201(b)(7), concerning the powers and
10 duties of the Arkansas Department of Environmental Quality and the Arkansas
11 Pollution Control and Ecology Commission, is amended to read as follows:

12 (7) Make recommendations to the director regarding overall
13 policy and administration of the ~~department~~ division, provided, however, that
14 the director shall always remain within the plenary authority of the Governor
15 and the Secretary of the Department of Energy and Environment; and

16
17 SECTION 2491. Arkansas Code § 8-4-202(a), concerning the rules and
18 regulations of the Arkansas Pollution Control and Ecology Commission, is
19 amended to read as follows:

20 (a) The Arkansas Pollution Control and Ecology Commission is given and
21 charged with the power and duty to adopt, modify, or repeal, after notice and
22 public hearings, rules and regulations implementing or effectuating the
23 powers and duties of the ~~Arkansas Department~~ Division of Environmental
24 Quality and the commission under this chapter.

25
26 SECTION 2492. Arkansas Code § 8-4-202(d)(4)(A)(iii), concerning the
27 rules and regulations of the Arkansas Pollution Control and Ecology
28 Commission, is amended to read as follows:

29 (iii) In all other cases, the ~~department~~ division
30 must provide its own justification with appropriate references to the
31 scientific and engineering literature or written studies conducted by the
32 ~~department~~ division;

33
34 SECTION 2493. Arkansas Code § 8-4-202(e)(3), concerning the rules and
35 regulations of the Arkansas Pollution Control and Ecology Commission, is
36 amended to read as follows:

1 (3) The imminent loss of federal funding, certification, or
2 authorization for any program administered by the ~~department~~ division shall
3 establish a prima facie case of imminent peril to the public health, safety,
4 or welfare.

5
6 SECTION 2494. Arkansas Code § 8-4-203 is amended to read as follows:

7 8-4-203. Permits generally – Definitions.

8 (a) The ~~Arkansas Department~~ Division of Environmental Quality or its
9 successor is given and charged with the power and duty to issue, continue in
10 effect, revoke, modify, or deny permits, under such conditions as it may
11 prescribe:

12 (1) To prevent, control, or abate pollution;

13 (2) For the discharge of sewage, industrial waste, or other
14 wastes into the waters of the state, including the disposal of pollutants
15 into wells; and

16 (3) For the installation, modification, or operation of disposal
17 systems or any part of them.

18 (b)(1)(A) The ~~department~~ division shall not issue, modify, renew, or
19 transfer a National Pollutant Discharge Elimination System permit or state
20 permit for a nonmunicipal domestic sewage treatment works without the permit
21 applicant first:

22 (i) Paying the trust fund contribution fee required
23 under subdivision (b)(4) of this section;

24 (ii) Submitting the assessment required by
25 subdivision (b)(1)(D) of this section; and

26 (iii) Certifying that the permit applicant has
27 complied with applicable local ordinances and regulations, including without
28 limitation:

29 (a) Local zoning ordinances;

30 (b) Local planning authority regulations; and

31 (c) Local permitting requirements.

32 (B) As used in this section, “nonmunicipal domestic sewage
33 treatment works” means a device or system operated by an entity other than a
34 city, town, or county that treats, in whole or in part, waste or wastewater
35 from humans or household operations and must continuously operate to protect
36 human health and the environment despite a permittee’s failure to maintain or

1 operate the device or system.

2 (C) The following are specifically exempted from the
3 requirements of this subsection:

4 (i) State or federal facilities;

5 (ii) Schools;

6 (iii) Universities and colleges;

7 (iv) Entities that continuously operate due to a
8 connection with a city, town, or county; and

9 (v) A commercial or industrial entity that treats
10 domestic sewage from its operations and does not accept domestic sewage from
11 other entities or residences.

12 (D) Each application for the initial permit and any
13 subsequent permit renewal, modification, or transfer for a nonmunicipal
14 domestic sewage treatment works submitted under this section shall be
15 accompanied by an assessment developed by a professional engineer licensed by
16 the state that includes:

17 (i) A cost estimate for a third party to operate and
18 maintain the nonmunicipal domestic sewage treatment works for five (5) years;

19 (ii) A list of all necessary capital expenditures,
20 system upgrades, or significant repairs and a milestone schedule for
21 completion within five (5) years; and

22 (iii) A financial plan that demonstrates to the
23 ~~department's~~ division's satisfaction the permittee's financial ability to
24 operate and maintain the nonmunicipal domestic sewage treatment works each
25 year for five (5) years.

26 (E)(i) Except as provided under subdivision (b)(1)(E)(ii)
27 of this section, the ~~department~~ division shall not issue, renew, or transfer
28 permit coverage for nonmunicipal domestic sewage treatment works to property
29 owners' associations or homeowners' associations after January 1, 2018.

30 (ii) A property owners' association or homeowners'
31 association with permit coverage before December 31, 2017, may retain permit
32 coverage if the property owners' association or homeowners' association
33 complies with this section.

34 (2) Until January 1, 2016, the ~~department~~ Arkansas Department of
35 Environmental Quality or the Division of Environmental Quality may reduce or
36 waive the amount of the required financial assurance if the permit applicant

1 can demonstrate to the department's or division's satisfaction that:

2 (A) For a renewal permit, during the five (5) years
3 preceding the application for a renewal permit, the nonmunicipal domestic
4 sewage treatment works has:

5 (i) Maintained the nonmunicipal domestic sewage
6 treatment works in continuous operation;

7 (ii) Maintained the nonmunicipal domestic sewage
8 treatment works in substantial compliance with the existing discharge permit
9 issued by the department or division, which shall be demonstrated by
10 submitting the following:

11 (a) All discharge monitoring reports;

12 (b) Evidence that the nonmunicipal domestic
13 sewage treatment works has not exceeded the same permit effluent criteria in
14 any two (2) consecutive monitoring periods during the previous three (3)
15 years;

16 (c) Evidence that no more than ten percent
17 (10%) of the nonmunicipal domestic sewage treatment works' submitted
18 discharge monitoring reports show effluent violations; and

19 (d) Evidence that there have not been any
20 administrative or judicial orders entered against the owner or operator for
21 violations of state or federal environmental laws, rules, or regulations or
22 permits issued by the department or division;

23 (iii) Maintained the services of a certified
24 wastewater treatment operator, where applicable;

25 (iv)(a) Remained financially solvent, which shall be
26 demonstrated by either:

27 (1) The nonmunicipal domestic sewage
28 treatment works' federal tax returns for the five (5) years preceding the
29 application for a renewal permit and a sworn affidavit from a corporate
30 official or other responsible official representing the nonmunicipal domestic
31 sewage treatment works that lists all assets and liabilities for the
32 nonmunicipal domestic sewage treatment works; or

33 (2) An independent certified public
34 accountant's report on the owner's or operator's independently reviewed
35 financial statements.

36 (b) The review of financial statements under

1 subdivision (b)(2)(A)(iv)(a)(2) of this section shall be conducted in
2 accordance with the American Institute of Certified Public Accountants'
3 Professional Standards, as they existed on January 1, 2013; and

4 (v) Operated the nonmunicipal domestic sewage
5 treatment works to prevent the discharge of waterborne pollutants in
6 unacceptable concentrations to the surface waters or groundwater of the state
7 as defined in the permit or as defined in the state's water quality
8 standards; or

9 (B) For a new permit:

10 (i) The reduction or waiver is necessary to
11 accommodate important economic or social development in the area of the
12 proposed nonmunicipal domestic sewage treatment works; and

13 (ii) The applicant has shown a history of financial
14 responsibility and compliance with regulatory requirements.

15 (3) The ~~department~~ division may withdraw a reduction or waiver
16 granted under this subsection at any time if the permittee has a permit
17 violation in three (3) or more consecutive discharge monitoring periods.

18 (4)(A) A permittee shall pay the trust fund contribution fee
19 determined by the ~~department~~ division under this subdivision (b)(4) to the
20 ~~department~~ division.

21 (B)(i) The ~~department~~ division shall determine the
22 required initial and annual trust fund contribution fees for each
23 nonmunicipal domestic sewage treatment works based on each nonmunicipal
24 domestic sewage treatment works' design treatment capacity according to the
25 National Pollutant Discharge Elimination System permit or the state permit
26 and existing and projected number of residential end users.

27 (ii)(a) The ~~department~~ division shall require an
28 initial trust fund contribution fee for each construction permit for a new
29 nonmunicipal domestic sewage treatment works or any modification to an
30 existing nonmunicipal domestic sewage treatment works resulting in an
31 increase in design treatment capacity according to the National Pollutant
32 Discharge Elimination System permit or the state permit.

33 (b) The initial trust fund contribution fee
34 required by the ~~department~~ division for a new nonmunicipal domestic sewage
35 treatment works is ten percent (10%) of the estimated cost of construction of
36 the new nonmunicipal domestic sewage treatment works as certified by the

1 engineer of record.

2 (c) The initial trust fund contribution fee
3 required by the ~~department~~ division for modifications to existing
4 nonmunicipal domestic sewage treatment works is ten percent (10%) of the
5 estimated cost of construction for the modification of the nonmunicipal
6 domestic sewage treatment works as certified by the engineer of record.

7 (d) The ~~department~~ division shall reduce the
8 initial trust fund contribution fee if:

9 (1) The nonmunicipal domestic sewage
10 treatment works is subject to an enforcement action; and

11 (2) The corrective actions approved by
12 the ~~department~~ division would require the nonmunicipal domestic sewage
13 treatment works to make an initial trust fund contribution.

14 (e) The ~~department~~ division shall not require
15 an initial trust fund contribution fee if the design treatment capacity
16 according to the National Pollutant Discharge Elimination System permit or
17 the state permit is not increased.

18 (iii) The annual trust fund contribution fee
19 required by the ~~department~~ division shall not exceed one thousand dollars
20 (\$1,000) per year for no-discharge permits or five thousand dollars (\$5,000)
21 per year for discharge permits.

22 (iv)(a) Except as otherwise provided in this
23 subsection, a nonmunicipal domestic sewage treatment works may apply for
24 reimbursement for a maximum of fifty percent (50%) of the costs for capital
25 expenditures necessary to maintain permit compliance made to the nonmunicipal
26 domestic sewage treatment facility in the previous five (5) years if:

27 (1) Funding is available and
28 appropriated; and

29 (2) The ~~department~~ division has issued
30 that nonmunicipal domestic sewage treatment facility's third permit renewal
31 following its initial trust fund contribution.

32 (b) Applications for reimbursement under this
33 subdivision (b)(4)(B) shall include a statement certified by a professional
34 engineer licensed by the State of Arkansas identifying the necessary capital
35 costs expended.

36 (v) Reimbursements from the Nonmunicipal Domestic

1 Sewage Treatment Works Trust Fund are subject to the following restrictions:

2 (a) Over the lifetime of a nonmunicipal
3 domestic sewage treatment facility, the reimbursement to a nonmunicipal
4 domestic sewage treatment works shall not exceed seventy-five percent (75%)
5 of that nonmunicipal domestic sewage treatment facility's initial trust fund
6 contribution fee;

7 (b) If the Director of the ~~Arkansas Department~~
8 Division of Environmental Quality determines that a nonmunicipal domestic
9 sewage treatment works is in a state of chronic noncompliance, that
10 nonmunicipal domestic sewage treatment works shall not receive reimbursement
11 from the Nonmunicipal Domestic Sewage Treatment Works Trust Fund; and

12 (c) The ~~department~~ division shall reimburse a
13 nonmunicipal domestic sewage treatment works based on a pro rata share of
14 each submitted request compared to the total remaining funding available if
15 there are insufficient moneys available in a fiscal year to make
16 reimbursements for all submitted requests under this subsection after:

17 (1) Deducting the moneys required to
18 make payments to third-party contractors hired by the ~~department~~ division
19 from the fund;

20 (2) Calculating the total remaining
21 funding available; and

22 (3) Allocating the moneys available for
23 reimbursement to each applicant for reimbursement.

24 (vi) The Arkansas Pollution Control and Ecology
25 Commission may promulgate regulations to implement this subsection.

26 (C) The trust fund contribution fee required under this
27 subdivision (b)(4):

28 (i) May be collected in conjunction with any other
29 permit fees;

30 (ii) Shall be paid before a permit is issued or
31 renewed; and

32 (iii) Shall be deposited into the fund.

33 (D) If the total amount in the fund equals or exceeds two
34 million one hundred thousand dollars (\$2,100,000), additional trust fund
35 contribution fees shall not be collected by the ~~department~~ division until the
36 total amount of the fund equals or is less than one million five hundred

1 thousand dollars (\$1,500,000), at which time the collection of required trust
2 fund contribution fees shall resume.

3 (5)(A) A permittee is responsible for ensuring that the required
4 trust fund contribution fee is received by the ~~department~~ division by the due
5 date determined by the ~~department~~ division.

6 (B) If the ~~department~~ division does not timely receive the
7 required trust fund contribution fees for a nonmunicipal domestic sewage
8 treatment works, the ~~department~~ division may initiate procedures to suspend
9 or revoke the permit under which the nonmunicipal domestic sewage treatment
10 works is operated.

11 (C) A permit applicant's or permit transfer applicant's
12 failure to pay the required trust fund contribution fee assessed by the
13 ~~department~~ division under this section is:

14 (i) Grounds for denying the permit or the permit
15 transfer; and

16 (ii) A violation of this chapter and subjects the
17 applicant to the penalties described in § 8-4-103.

18 (6) Sanctions for violating this subsection may include without
19 limitation civil penalties and suspension or revocation of a permit.

20 (7) The ~~department~~ division may seek cost recovery from an owner
21 or operator and reimbursement to the fund of any moneys expended under this
22 section, including without limitation the institution of a civil action
23 against the owner or operator.

24 (8) The ~~department~~ division shall not directly operate or be
25 responsible for the operation of a nonmunicipal domestic sewage treatment
26 works.

27 (9)(A) The director or the director's designee may send a signed
28 statement to each water service provider that serves all or a portion of the
29 service area of a nonmunicipal domestic sewage treatment works certifying
30 that the director finds that the nonmunicipal domestic sewage treatment
31 works:

32 (i) Is the subject of an enforcement action by the
33 ~~department~~ division;

34 (ii) Has not complied with the requirements of this
35 section, including payment of the nonmunicipal domestic sewage treatment
36 works trust fund contribution; or

1 (iii) Otherwise failed to comply with its permit.

2 (B) The ~~department~~ division shall include a legal
3 description of the service area for the nonmunicipal domestic sewage
4 treatment works with the signed statement under subdivision (b)(9)(A) of this
5 section.

6 (C) Upon receipt of a signed statement that includes a
7 legal description of the service area for the nonmunicipal domestic sewage
8 treatment works, the water service provider shall not establish new
9 connections or initiate service to existing connections for water service in
10 the service area of the nonmunicipal domestic sewage treatment works as
11 defined by the legal description.

12 (D) If the director or the director's designated
13 representative finds that the nonmunicipal domestic sewage treatment works is
14 no longer subject to an enforcement action or has remedied the noncompliance
15 that formed the basis for the signed statement under subdivision (b)(9)(A) of
16 this section, the director or the director's designated representative shall
17 send a signed statement of the finding to each water service provider that
18 received the prior statement.

19 (E) Upon receipt of the signed statement required under
20 subdivision (b)(9)(D) of this section, the water service provider may resume
21 installation of new connections or resume initiation of service to existing
22 connections for water service.

23 (c)(1)(A)(i) All facilities that engage in land application or storage
24 of fluids generated or utilized during exploration or production phases of
25 oil or gas operations shall be closed in a manner that ensures protection of
26 human health and the environment.

27 (ii) As used in this subsection, "land application
28 or storage of fluids generated or utilized during exploration or production
29 phases of oil or gas operations" means land farming through the controlled
30 and repeated application of drilling fluids to a soil surface or the practice
31 of receiving and storing said fluids from offsite for waste management.

32 (iii) Surface facilities associated with Class II
33 injection wells are specifically excluded from the requirements of this
34 subsection.

35 (iv) Land applications at the drilling or
36 exploration site that are authorized under any general permit issued by the

1 ~~department~~ division are excluded from the requirements of this subsection.

2 (B) By October 1, 2009, each existing permitted facility
3 regulated under this subsection shall submit to the ~~department~~ division the
4 following:

5 (i) A plan to close the permitted facility and make
6 any site restoration deemed necessary by the ~~department~~ division;

7 (ii) A detailed cost estimate to close and restore
8 the permitted facility that meets the requirements of this subsection and is
9 approved by the ~~department~~ division; and

10 (iii) A financial mechanism that demonstrates to the
11 ~~department's~~ division's satisfaction the permittee's financial ability to
12 ensure adequate closure and any necessary restoration of the permitted
13 facility in accordance with the requirements of this subsection.

14 (C) The ~~department~~ division shall not issue, modify, or
15 renew a permit for facilities regulated under this subsection without the
16 permit applicant first demonstrating to the ~~department's~~ division's
17 satisfaction the applicant's financial ability to ensure adequate closure and
18 any necessary restoration of the permitted facility in accordance with the
19 requirements of this subsection.

20 (D)(i) The amount of any financial assurance required
21 under this subsection shall be equal to or greater than the detailed cost
22 estimate for a third party to close the permitted facility in accordance with
23 closure plans approved by the ~~department~~ division.

24 (ii) The detailed cost estimate shall be prepared by
25 an independent professional consultant.

26 (iii) On or before August 15 of each year, a
27 permittee shall submit to the ~~department~~ division for approval a detailed
28 cost estimate to close and restore the permitted facility in accordance with
29 closure plans that have been approved by the ~~department~~ division.

30 (E)(i) For new permits, the applicant shall submit to the
31 ~~department~~ division for approval a detailed cost estimate to close and
32 restore the facility based on the proposed operation and capacity of the
33 facility from the date the permit is issued through the following October 1.

34 (ii) For renewal or modification applications, the
35 permittee shall submit to the ~~department~~ division for approval a detailed
36 cost estimate to close and restore the permitted facility based on closure

1 plans that have been approved by the ~~department~~ division.

2 (F)(i) For each permit, the financial assurance mechanism
3 shall be renewed on October 1 of each year.

4 (ii) For each permit, documentation that the
5 required financial assurance mechanism has been renewed beginning October 1
6 of that year shall be received by the ~~department~~ division by September 15 of
7 each year or the ~~department~~ division shall initiate procedures to:

8 (a) Take possession of the funds guaranteed by
9 the financial assurance mechanism; and

10 (b)(1) Suspend or revoke the permit under
11 which the facility is operated.

12 (2) A permit shall remain suspended
13 until a financial assurance mechanism is provided to the ~~department~~ division
14 in accordance with this subsection.

15 (iii) The permittee is responsible for ensuring that
16 documentation of annual renewal is received by the ~~department~~ division by its
17 due date.

18 (2) The permittee or applicant shall demonstrate financial
19 ability to adequately close or restore the land application or storage
20 facility by:

21 (A) Obtaining insurance that specifically covers closure
22 and restoration costs;

23 (B) Obtaining a letter of credit;

24 (C) Obtaining a bond or other surety instrument;

25 (D) Creating a trust fund or an escrow account;

26 (E) Combining any of the instruments in subdivisions

27 (c)(2)(A)-(D) of this section; or

28 (F) Any other financial instrument approved by the
29 director.

30 (3) A financial instrument required by this subsection shall:

31 (A) Be posted to the benefit of the ~~department~~ division;

32 (B) Provide that the financial instrument cannot be
33 canceled without sixty (60) days' prior written notice addressed to the
34 ~~department's~~ division's legal division chief as evidenced by a signed,
35 certified mail with a return receipt request; and

36 (C) Be reviewed by the ~~department~~ division upon receipt of

1 the cancelation notice to determine whether to initiate procedures to revoke
2 or suspend the facility's permit and whether to initiate procedures to take
3 possession of the funds guaranteed by the financial assurance mechanism.

4 (4) Before the ~~department~~ division may release a financial
5 assurance mechanism, the ~~department~~ division shall receive a certification by
6 a professional engineer that the permitted facility has been closed and
7 restored in accordance with closure plans that have been approved by the
8 ~~department~~ division.

9 (5) The ~~department~~ division is not responsible for the
10 operation, closure, or restoration of a facility regulated under this
11 subsection.

12 (d)(1) When an application for the issuance of a new permit or a major
13 modification of an existing permit is filed with the ~~department~~ division, the
14 ~~department~~ division shall cause notice of the application to be published in
15 a newspaper of general circulation in the county in which the proposed
16 facility is to be located.

17 (2) The notice required by subdivision (d)(1) of this section
18 shall advise that any interested person may request a public hearing on the
19 permit application by giving the ~~department~~ division a written request within
20 ten (10) days of the publication of the notice.

21 (3)(A) If the ~~department~~ division determines that a hearing is
22 necessary or desires such a hearing, the ~~department~~ division shall schedule a
23 public hearing.

24 (B)(i) If the ~~department~~ division schedules a public
25 hearing, the ~~department~~ division shall notify the applicant and all persons
26 who have submitted comments of the date, time, and place of the public
27 hearing.

28 (ii) The notice shall be provided using one (1) of
29 the following methods based on the contact information available for the
30 applicant or the person and the director's discretion:

31 (a) First class mail; or

32 (b) Email.

33 (e)(1)(A) Whenever the ~~department~~ division proposes to grant or deny
34 any permit application, it shall cause notice of its proposed action to be
35 published in either:

36 (i) A newspaper of general circulation in the county

1 in which the facility that is the subject of the application is located; or

2 (ii) In the case of a statewide permit, in a
3 newspaper of general circulation in the state.

4 (B) The notice shall afford any interested party thirty
5 (30) calendar days in which to submit comments on the proposed permit action.

6 (C)(i) At the conclusion of the public comment period, the
7 ~~department~~ division shall provide a final written permitting decision
8 regarding the permit application.

9 (ii) The final written permitting decision shall be
10 published on the ~~department's~~ division's website.

11 (iii) The ~~department~~ division shall provide the
12 applicant the final permitting decision using one (1) of the following
13 methods based on the contact information available and the director's
14 discretion:

15 (a) First class mail; or

16 (b) Email.

17 (iv) The ~~department~~ division shall provide notice of
18 the final permitting decision to all persons who have submitted comments
19 using one (1) of the following methods based on the contact information
20 available and the director's discretion:

21 (a) First class mail; or

22 (b) Email.

23 (2)(A)(i) The ~~department's~~ division's final decision shall
24 include a response to each issue raised in any public comments received
25 during the public comment period. The response shall manifest reasoned
26 consideration of the issues raised by the public comments and shall be
27 supported by appropriate legal, scientific, or practical reasons for
28 accepting or rejecting the substance of the comment in the ~~department's~~
29 division's permitting decision.

30 (ii) For the purposes of this section, response to
31 comments by the ~~department~~ division should serve the roles of both developing
32 the record for possible judicial review of an individual permitting action
33 and as a record for the public's review of the ~~department's~~ division's
34 technical and legal interpretations on long-range regulatory issues.

35 (iii) Nothing in this section, however, shall be
36 construed as limiting the ~~department's~~ division's authority to raise all

1 relevant issues of regulatory concern upon adjudicatory review of the
2 commission of a particular permitting action.

3 (B)(i) In the case of any discharge limit, emission limit,
4 environmental standard, analytical method, or monitoring requirements, the
5 record of the proposed action and the response shall include a written
6 explanation of the rationale for the proposal, demonstrating that any
7 technical requirements or standards are based upon generally accepted
8 scientific knowledge and engineering practices.

9 (ii) For any standard or requirement that is
10 identical to an applicable regulation, this demonstration may be satisfied by
11 reference to the regulation. In all other cases, the ~~department~~ division must
12 provide its own justification with appropriate reference to the scientific
13 and engineering literature or written studies conducted by the ~~department~~
14 division.

15 (f)(1) All costs of publication of notices of applications and notices
16 of proposals to grant permits under this section shall be the responsibility
17 of the applicant.

18 (2) All costs of publication of notices of proposals to deny a
19 permit under this section shall be the responsibility of the ~~department~~
20 division.

21 (3) Any moneys received under this subsection shall be
22 classified as refunds to expenditures.

23 (g) Only those persons that submit comments on the record during the
24 public comment period and the applicant shall have standing to appeal the
25 decision of the ~~department~~ division to the commission.

26 (h)(1) Permits for the discharge of pollutants into the waters of the
27 state or for the prevention of pollution of the waters of the state shall
28 remain freely transferable if the applicant for the transfer:

29 (A) Notifies the director at least thirty (30) days in
30 advance of the proposed transfer date;

31 (B) Submits a disclosure statement as required under § 8-
32 1-106;

33 (C) Provides any replacement financial assurance required
34 under this section; and

35 (D) Ensures that all past and currently due annual permit
36 fees and the trust fund contribution fees for the nonmunicipal domestic

1 sewage treatment works have been paid.

2 (2) Only the reasons stated in §§ 8-1-103(4), 8-1-106(b)(1), 8-
3 1-106(c), and this section constitute grounds for denial of a transfer.

4 (3) The permit is automatically transferred to the new permittee
5 unless the director denies the request within thirty (30) days of the receipt
6 of the disclosure statement.

7 (i) In the event of voluminous comments, including without limitation
8 a petition, the ~~department~~ division may require the designation of a
9 representative to accept any notices required by this section.

10 (j) The notice provisions of subsections (d) and (e) of this section
11 do not apply to permit transfers or minor modifications of existing permits.

12 (k) This section in no way restricts local and county government
13 entities from enacting more stringent ordinances regulating nonmunicipal
14 domestic treatment sewage systems in Arkansas.

15 (l) The commission may promulgate rules to establish a permit-by-rule.
16 A permit-by-rule is subject to the public notice requirements and procedural
17 provisions under § 8-4-202 et seq. but is not subject to the public notice
18 requirements and procedural provisions under this section and §§ 8-4-204 and
19 8-4-205.

20 (m)(1)(A)(i) The ~~department~~ division may issue general permits under
21 subsection (a) of this section.

22 (ii) A general permit is a statewide permit for a
23 category of facilities or sources that:

24 (a) Involve the same or substantially similar
25 types of operations or activities;

26 (b) Discharge or release the same type of
27 wastes or engage in the same type of disposal practices;

28 (c) Require the same limitations, operating
29 conditions, or standards;

30 (d) Require the same or similar monitoring
31 requirements; and

32 (e) In the opinion of the director, may be
33 regulated under a general permit.

34 (B)(i) Facilities or sources eligible to construct or
35 operate under a general permit may obtain coverage by submitting a notice of
36 intent to the ~~department~~ division.

1 (ii) The director may require a person who has been
2 granted coverage under a general permit to apply for and obtain an individual
3 permit.

4 (2)(A) A general permit is subject to the public notice
5 requirements for statewide permits and the procedures under subsection (e) of
6 this section.

7 (B) The ~~department~~ division shall pay the costs of
8 publication of notice of a draft permitting decision to issue a general
9 permit.

10 (C) General permit coverage is not transferable unless the
11 general permit provides for transfer.

12 (3)(A)(i) Before the submittal to public comment of a general
13 permit that has not been previously issued, the ~~department~~ division shall
14 consider the economic impact and environmental benefit of the general permit
15 and its terms and conditions upon the people of the State of Arkansas,
16 including those entities that may apply for coverage under the general
17 permit.

18 (ii) This requirement does not apply to general
19 permits or terms or conditions that adopt the language of state or federal
20 statutes or regulations without substantive change.

21 (B) If the terms and conditions of a previously issued
22 general permit are revised upon renewal, the economic impact and
23 environmental benefit of only the proposed changes shall be considered.

24 (C) A general permit for which costs are specifically
25 prohibited from being considered by state or federal law or regulation is
26 exempt from the requirements of this subsection.

27 (D) The ~~department~~ division may rely upon readily
28 available information for its consideration of the economic impact and
29 environmental benefit of the general permit and its terms and conditions.

30 (4)(A) Only those persons that submit comments on the record
31 during the public comment period shall have standing to appeal the decision
32 of the ~~department~~ division to the commission.

33 (B) The final permitting decision of the ~~department~~
34 division on the general permit is subject to a hearing before the commission
35 under §§ 8-4-205, 8-4-212, 8-4-213, 8-4-214, and the administrative
36 procedures promulgated by the commission.

1 (5)(A)(i) When a general permit includes an expiration date
2 later than July 1, 2012, the ~~department~~ Arkansas Department of Environmental
3 Quality or the Division of Environmental Quality shall publish the notice of
4 intent to renew or not renew the general permit at least three hundred sixty-
5 five (365) days before the expiration of the general permit.

6 (ii) When a general permit includes an expiration
7 date earlier than July 1, 2012, the department or the division shall publish
8 the notice of intent to renew or not renew the general permit as soon as
9 reasonably possible.

10 (B) The department or the division shall publish its final
11 permitting decision to renew or not renew the general permit at least one
12 hundred eighty (180) days before the expiration date of the general permit.

13 (C) If the general permit expires before the final
14 decision to renew or not renew the general permit, the terms and conditions
15 of the general permit shall remain in effect, and all persons who obtained
16 coverage under the general permit before its expiration shall retain coverage
17 under the general permit until there has been a final permit decision on the
18 general permit.

19 (D) In the event the department or the division makes a
20 decision to not renew the general permit, existing coverage under the general
21 permit shall continue under the terms of the expired permit until a final
22 decision is reached for an individual permit.

23 (6)(A) If a general permit is appealed and the general permit
24 expires before the final decision by the director or by the commission to
25 renew or not renew the general permit, the terms and conditions of the
26 general permit shall remain in effect.

27 (B) All persons who obtained coverage under the general
28 permit before its expiration shall retain coverage under the general permit
29 until there has been a final administrative decision on the general permit.

30 (C) The director shall not approve new coverage under an
31 expired general permit for any facility for which a notice of intent was not
32 filed before expiration of the general permit.

33 (n)(1) When an application for the issuance of a new permit for a
34 liquid animal waste system or a modification of an existing permit for a
35 liquid animal waste system is filed, the ~~department~~ division shall give
36 notice of its proposed action in accordance with subdivision (e)(1)(A) of

1 this section within one hundred twenty (120) days of receipt of the
2 application.

3 (2)(A) At the conclusion of the public comment period, the
4 ~~department~~ division shall announce in writing within sixty (60) days its
5 final decision regarding the permit application in accordance with
6 subdivision (e)(2)(A) of this section.

7 (B) For a modification that the ~~department~~ division
8 considers to be minor in nature, the ~~department~~ division shall make its final
9 decision regarding the permit application within thirty (30) days after
10 receipt of the application.

11 (3) An applicant may waive in writing to the ~~department~~ division
12 the timeliness requirement under subdivisions (n)(1) and (2) of this section.

13 (o)(1) If an application for modification of an existing state permit
14 for a liquid animal waste management system is filed with the ~~department~~
15 division, only those permit conditions subject to the modification are open
16 for review.

17 (2)(A) Except as provided in subdivision (o)(2)(B) of this
18 section, an existing state permit for a liquid animal waste management system
19 that is in good standing is not subject to review or third-party appeal for
20 siting or location issues that were not raised during the applicable review
21 or appeal period at the time of permit issuance.

22 (B) Subdivision (o)(2)(A) of this section does not limit
23 the authority of the ~~department~~ division to address or enforce a violation of
24 permit conditions or applicable law.

25

26 SECTION 2495. The introductory language of Arkansas Code § 8-4-204,
27 concerning permits and revocation by the Arkansas Department of Environmental
28 Quality, is amended to read as follows:

29 8-4-204. Permits – Revocation.

30 The ~~Arkansas Department~~ Division of Environmental Quality or its
31 successor is given and charged with the power and duty to revoke, modify, or
32 suspend, in whole or in part, for cause any permit issued under this chapter,
33 including without limitation:

34

35 SECTION 2496. Arkansas Code § 8-4-205(a), concerning permits, hearings
36 upon denial, revocation, or modification of permit by the Arkansas Department

1 of Environmental Quality, is amended to read as follows:

2 (a) Any person that is denied a permit by the Director of the ~~Arkansas~~
3 ~~Department~~ Division of Environmental Quality or that has a permit revoked or
4 modified or a request for permit transfer or modification denied shall be
5 afforded an opportunity for a hearing by the Arkansas Pollution Control and
6 Ecology Commission in connection therewith, upon written application made
7 within thirty (30) days after service of notice of the denial, revocation, or
8 modification.

9

10 SECTION 2497. Arkansas Code § 8-4-205(b)(1), concerning permits,
11 hearings upon denial, revocation, or modification of permit by the Arkansas
12 Department of Environmental Quality, is amended to read as follows:

13 (b)(1) Only those interested persons, other than the applicant, that
14 have submitted comments on the record regarding a proposed permit action
15 during the public comment period shall have standing to request a hearing by
16 the commission in connection therewith, upon written application made within
17 thirty (30) days after the date of the ~~Arkansas Department~~ Division of
18 Environmental Quality's final decision regarding the permit action.

19

20 SECTION 2498. Arkansas Code § 8-4-206 is amended to read as follows:

21 8-4-206. State water pollution control agency – General authority.

22 (a) In addition to any other powers which it may have under this
23 chapter or any other legislative act, the ~~Arkansas Department~~ Division of
24 Environmental Quality is authorized and empowered to act as the “state water
25 pollution control agency” for the State of Arkansas for the purposes of the
26 Federal Water Pollution Control Act Amendments of 1972.

27 (b) As the state water pollution control agency, the ~~department~~
28 division may, among other things, approve projects for the construction of
29 disposal systems for the purposes of loans and grants from the United States
30 Environmental Protection Agency or any other federal agency and may take any
31 other action necessary or appropriate to secure for the state the benefits of
32 the Federal Water Pollution Control Act, as amended.

33

34 SECTION 2499. The introductory language of Arkansas Code § 8-4-207,
35 concerning the powers and duties of the state water pollution control agency,
36 is amended to read as follows:

1 Without limiting the generality of the provisions of this chapter or of
2 the powers which the Director of the ~~Arkansas Department~~ Division of
3 Environmental Quality and the Arkansas Pollution Control and Ecology
4 Commission may have under this or any other legislative act:

5
6 SECTION 2500. Arkansas Code § 8-4-207(6)(A)(ii), concerning the powers
7 and duties of the state water pollution control agency, is amended to read as
8 follows:

9 (ii) However, information submitted to the ~~Arkansas~~
10 ~~Department~~ Division of Environmental Quality may be claimed as confidential
11 if its disclosure would divulge trade secrets.

12
13 SECTION 2501. Arkansas Code § 8-4-207(6)(B), concerning the powers and
14 duties of the state water pollution control agency, is amended to read as
15 follows:

16 (B) The ~~department~~ division shall deny any claim for
17 confidentiality for the name and address of any permit applicant or permittee
18 or for any National Pollutant Discharge Elimination System permit
19 applications, National Pollutant Discharge Elimination System permits, and
20 effluent data.

21
22 SECTION 2502. Arkansas Code § 8-4-207(6)(D), concerning the powers and
23 duties of the state water pollution control agency, is amended to read as
24 follows:

25 (D) Any person adversely affected by a determination by
26 the ~~department~~ division on a claim of confidentiality may appeal the
27 determination as provided in §§ 8-4-222 and 8-4-223.

28
29 SECTION 2503. Arkansas Code § 8-4-208 is amended to read as follows:
30 8-4-208. State water pollution control agency – Administration of
31 permit program generally.

32 (a) The ~~Arkansas Department~~ Division of Environmental Quality is
33 authorized, subject to the approval of the Governor, to administer on behalf
34 of the state its own permit program for discharges into navigable waters
35 within its jurisdiction in lieu of that of the United States Environmental
36 Protection Agency. The ~~department~~ division is also authorized to submit to

1 the Administrator of the United States Environmental Protection Agency for
2 approval a full and complete description of the program which the ~~department~~
3 division proposes to establish and administer under state law, as provided by
4 § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33
5 U.S.C. § 1342(b). To that end, the ~~department~~ division and the Arkansas
6 Pollution Control and Ecology Commission are vested with all necessary
7 authority and power to meet the requirements of § 402(b) of the Federal Water
8 Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b), and the
9 guidelines promulgated by the United States Environmental Protection Agency
10 pursuant to § 304(h)(2) of the Federal Water Pollution Control Act Amendments
11 of 1972, 33 U.S.C. § 1314(h), to engage in an approved continuing planning
12 process under § 303(e) of the Federal Water Pollution Control Act Amendments
13 of 1972, 33 U.S.C. § 1313(e), and to perform any and all acts necessary to
14 carry out the purposes and requirements of the Federal Water Pollution
15 Control Act Amendments of 1972 relating to this state's participation in the
16 National Pollutant Discharge Elimination System established under the Federal
17 Water Pollution Control Act Amendments of 1972, subject to all restrictions
18 contained in the Federal Water Pollution Control Act Amendments of 1972 and
19 guidelines.

20 (b) The ~~department~~ division shall further have the authority to accept
21 a delegation of authority from the Administrator of the United States
22 Environmental Protection Agency under the Federal Water Pollution Control Act
23 Amendments of 1972 and to exercise and enforce the authority delegated.

24 (c) Any public hearing that may be held by the Director of the
25 ~~Arkansas Department~~ Division of Environmental Quality preliminary to acting
26 on a permit application as required by the Federal Water Pollution Control
27 Act Amendments of 1972 and guidelines, unless otherwise designated in the
28 notice of hearing, shall be for informational purposes only and shall not be
29 deemed a hearing before the commission within the meaning of § 8-4-205. No
30 appeal may be taken therefrom.

31
32 SECTION 2504. Arkansas Code § 8-4-209 is amended to read as follows:

33 8-4-209. State water pollution control agency – Participation of
34 certain persons prohibited in approval of permit applications.

35 Any provision of state law to the contrary notwithstanding, no member
36 of the ~~Arkansas Department~~ Division of Environmental Quality or the Arkansas

1 Pollution Control and Ecology Commission or other state agency who receives
2 or has during the previous two (2) years received a significant portion of
3 his or her income directly or indirectly from permit holders or applicants
4 for a permit shall participate in the approval of the National Pollutant
5 Discharge Elimination System permit applications or portions thereof.

6
7 SECTION 2505. Arkansas Code § 8-4-210(e), concerning investigations
8 and hearings by the Arkansas Pollution Control and Ecology Commission, is
9 amended to read as follows:

10 (e) In accordance with the powers set forth in subsections (a)-(d) of
11 this section, the commission is authorized to conduct adjudicatory hearings
12 providing an aggrieved person with standing a forum for contesting any
13 decision of the ~~Arkansas Department~~ Division of Environmental Quality. For
14 the purposes of such hearings, the commission's jurisdiction shall be
15 construed as including all regulatory programs vested with the ~~department~~
16 division.

17
18 SECTION 2506. Arkansas Code § 8-4-211(a), concerning delcaratory
19 orders by the Arkansas Pollution Control and Ecology Commission is amended to
20 read as follows:

21 (a) Any permittee or person subject to regulation may petition the
22 Arkansas Pollution Control and Ecology Commission for a declaratory order as
23 to the application of any rule, statute, permit, or order enforced by the
24 ~~Arkansas Department~~ Division of Environmental Quality or the commission.

25
26 SECTION 2507. Arkansas Code § 8-4-212(a), concerning orders and
27 adjudicatory hearings by the Arkansas Department of Environmental Quality and
28 the Arkansas Pollution Control and Ecology Commission, is amended to read as
29 follows:

30 (a) No final order resolving a contested decision of the ~~Arkansas~~
31 ~~Department~~ Division of Environmental Quality shall be issued until the
32 Arkansas Pollution Control and Ecology Commission has provided aggrieved
33 persons that have standing the opportunity for an adjudicatory hearing upon
34 the matter.

35
36 SECTION 2508. Arkansas Code § 8-4-215 is amended to read as follows:

1 8-4-215. Intergovernmental cooperation.

2 (a) The ~~Arkansas Department~~ Division of Environmental Quality or its
3 successor and the Arkansas Pollution Control and Ecology Commission, so far
4 as it is not inconsistent with its duties under the laws of this state, may
5 assist and cooperate with any agency of another state or the United States in
6 any matter relating to water pollution control.

7 (b)(1) The commission or the ~~department~~ division may receive and
8 accept money, property, or services from any person or from any agency
9 described in subsection (a) of this section or from any other source for any
10 water pollution control purpose within the scope of its functions under this
11 chapter.

12 (2) All moneys so received shall be used for the operation and
13 activities of the commission or ~~department~~ division and for no other
14 purposes.

15 (c)(1) The ~~department~~ division or its successor may enter into
16 agreements with the responsible authorities of the United States or other
17 states, subject to approval by the Governor, relative to policies, methods,
18 means, and procedures to be employed to control pollution of any interstate
19 waters and may carry out these agreements by appropriate general and special
20 orders.

21 (2)(A) This power shall not be deemed to extend to the
22 modification of any agreement with any other state concluded by direct
23 legislative act.

24 (B) However, unless otherwise provided, the ~~department~~
25 division shall be the agency for the administration and enforcement of any
26 such legislative agreement.

27
28 SECTION 2509. Arkansas Code § 8-4-216 is amended to read as follows

29 8-4-216. Information and inspections.

30 (a) The owner or operator of or any contributor of sewage, industrial
31 wastes, or other wastes to any disposal system or an industrial user of a
32 publicly owned treatment system, when requested by the Director of the
33 ~~Arkansas Department~~ Division of Environmental Quality, shall furnish to the
34 ~~Arkansas Department~~ Division of Environmental Quality any information that is
35 relevant to the subject of this chapter. The owner or operator shall
36 establish and maintain such records, make such reports, install, use, and

1 maintain such monitoring equipment or methods, including, when appropriate,
2 biological monitoring methods, sample such effluents, and provide such other
3 information as the director may reasonably require.

4 (b) The ~~department~~ division or any authorized employee or agent of the
5 ~~department~~ division may examine and copy any book, papers, records, or
6 memoranda pertaining to the operation of a disposal system.

7 (c) Whenever it shall be necessary for the purpose of this chapter,
8 the ~~department~~ division or any authorized member, employee, or agent of the
9 ~~department~~ division may enter upon any public or private property for the
10 purpose of obtaining information or conducting surveys or investigations.

11
12 SECTION 2510. Arkansas Code § 8-4-217(a)(3), concerning unlawful
13 actions under the laws of the Arkansas Pollution Control and Ecology
14 Commission and the Arkansas Department of Environmental Quality, is amended
15 to read as follows:

16 (3) Violate any provisions of this chapter or of any rule,
17 regulation, or order adopted by the Arkansas Pollution Control and Ecology
18 Commission under this chapter or of a permit issued under this chapter by the
19 ~~Arkansas Department~~ Division of Environmental Quality;

20
21 SECTION 2511. The introductory language of Arkansas Code § 8-4-
22 217(a)(6)(A)(iii), concerning unlawful actions under the laws of the Arkansas
23 Pollution Control and Ecology Commission and the Arkansas Department of
24 Environmental Quality, is amended to read as follows:

25 (iii) A substance the ~~department~~ division excludes
26 from the phosphorus limitations of this section based on a finding that
27 compliance with this section would:

28
29 SECTION 2512. The introductory language of Arkansas Code § 8-4-
30 217(b)(1), concerning unlawful actions under the laws of the Arkansas
31 Pollution Control and Ecology Commission and the Arkansas Department of
32 Environmental Quality, is amended to read as follows:

33 (b)(1) It shall be unlawful for any person to engage in any of the
34 following acts without having first obtained a written permit from the
35 ~~department~~ division:

36

1 SECTION 2513. Arkansas Code § 8-4-217(b)(2), concerning unlawful
2 actions under the laws of the Arkansas Pollution Control and Ecology
3 Commission and the Arkansas Department of Environmental Quality, is amended
4 to read as follows:

5 (2) The ~~department~~ division may require the submission of such
6 plans, specifications, and other information as it deems relevant in
7 connection with the issuance of disposal permits.

8
9 SECTION 2514. Arkansas Code § 8-4-218(a), concerning the notice of
10 violations, orders, rules, and hearings by the Arkansas Department of
11 Environmental Quality, is amended to read as follows:

12 (a) Whenever the ~~Arkansas Department~~ Division of Environmental Quality
13 or its successor determines that there are reasonable grounds to believe that
14 there has been a violation of any of the provisions of this chapter or any
15 order, rule, or regulation of the Arkansas Pollution Control and Ecology
16 Commission, it may give written notice to the alleged violator specifying the
17 causes of complaint.

18
19 SECTION 2515. Arkansas Code § 8-4-220(a), concerning an order of the
20 Arkansas Department of Environmental Quality without a hearing in an
21 emergency, is amended to read as follows:

22 (a) When the ~~Arkansas Department~~ Division of Environmental Quality or
23 its successor finds that an emergency exists requiring immediate action to
24 protect the public health or welfare it may, without notice or hearing, issue
25 an order reciting the existence of such emergency and requiring that such
26 action be taken as it deems necessary to meet the emergency.

27
28 SECTION 2516. Arkansas Code § 8-4-230(a), concerning temporary
29 variances and interim authority granted by the Director of the Department of
30 Environmental Quality, is amended to read as follows:

31 (a)(1) Unless otherwise expressly prohibited by federal law, the
32 Director of the ~~Arkansas Department~~ Division of Environmental Quality may,
33 for compelling reasons and good cause shown, grant:

34 (A) A temporary variance from the requirements of a permit
35 issued by the ~~Arkansas Department~~ Division of Environmental Quality; or

36 (B) Interim authority to construct or operate during the

1 application review and permit issuance process.

2 (2) Such temporary variances or interim authority shall not
3 exceed a period of ninety (90) days, except when a longer period is justified
4 by circumstances beyond the applicant's control. The ~~department~~ division may
5 grant a request for an extension of a temporary variance or interim authority
6 at any time prior to the expiration date.

7 (3) The ~~department~~ division may require an initial processing
8 fee of two hundred dollars (\$200) for a request for a temporary variance or
9 an interim authority request. This fee shall not be required for requests for
10 an extension of any temporary variance or interim authority.

11

12 SECTION 2517. Arkansas Code § 8-4-230(e)(1), concerning temporary
13 variances and interim authority granted by the Director of the Department of
14 Environmental Quality, is amended to read as follows:

15 (e)(1) The director's decision to grant or deny a temporary variance
16 or interim authority to construct or operate shall be issued within ten (10)
17 days of receipt of the request for the temporary variance or interim
18 authority and shall be publicly noticed in a newspaper of general circulation
19 in the state within five (5) business days of the director's decision. The
20 applicant shall be responsible for the expense of the publication of a
21 decision to grant a temporary variance or interim authority. The ~~department~~
22 division shall be responsible for the expense of the publication of a
23 decision to deny a temporary variance or interim authority.

24

25 SECTION 2518. Arkansas Code § 8-4-232(b)(2)(E), concerning nutrient
26 water quality trading programs, is amended to read as follows:

27 (E)(i) The establishment of a schedule of user fees to be
28 collected by the ~~Arkansas Department~~ Division of Environmental Quality from
29 persons or entities utilizing nutrient water quality trades or offsets to
30 comply with permit limits.

31 (ii) The user fees shall be based on a record
32 calculating the reasonable costs to the ~~department~~ division of implementing
33 and enforcing each nutrient water quality trading, credit, or offset program.

34

35 SECTION 2519. The introductory language of Arkansas Code § 8-4-232(c),
36 concerning nutrient water quality trading programs, is amended to read as

1 follows:

2 (c) Under regulations adopted by the commission under subsection (b)
3 of this section, the ~~department~~ division may:

4
5 SECTION 2520. Arkansas Code § 8-4-233(f), concerning the creation,
6 members, and duties of the Nutrient Water Quality Trading Advisory Panel, is
7 amended to read as follows:

8 (f) The ~~Arkansas Department~~ Division of Environmental Quality shall
9 provide meeting space and administrative services for the panel.

10

11 SECTION 2521. Arkansas Code § 8-4-233(g)(1), concerning the creation,
12 members, and duties of the Nutrient Water Quality Trading Advisory Panel, is
13 amended to read as follows:

14 (1) Advise the ~~department~~ division and the Arkansas Natural
15 Resources Commission regarding the desirability, design, and operation of
16 nutrient water quality trading programs; and

17

18 SECTION 2522. The introductory language of Arkansas Code § 8-4-
19 234(a)(1), concerning short-term activity authorization by the Director of
20 the Arkansas Department of Environmental Quality, is amended to read as
21 follows:

22 (a)(1) The Director of the ~~Arkansas Department~~ Division of
23 Environmental Quality may authorize short-term activities that have potential
24 to affect compliance with Arkansas water quality standards if:

25

26 SECTION 2523. Arkansas Code § 8-4-234(b)(1), concerning short-term
27 activity authorization by the Director of the Arkansas Department of
28 Environmental Quality, is amended to read as follows:

29 (b)(1) The ~~Arkansas Department~~ Division of Environmental Quality may
30 collect a processing fee for a short-term activity authorization.

31

32 SECTION 2524. Arkansas Code § 8-4-234(b)(4)(A), concerning short-term
33 activity authorization by the Director of the Arkansas Department of
34 Environmental Quality, is amended to read as follows:

35 (4)(A) The ~~department~~ division shall enter into an agreement
36 with a state agency, board, or commission or municipality, city, or county

1 that creates an alternative payment structure in lieu of fees authorized
2 under subdivision (b)(2) of this section.

3
4 SECTION 2525. Arkansas Code § 8-4-234(b)(4)(B)(ii), concerning short-
5 term activity authorization by the Director of the Arkansas Department of
6 Environmental Quality, is amended to read as follows:

7 (ii) A process under which the ~~department~~ division
8 provides notice to the state agency, board, or commission or municipality,
9 city, or county of planned actions under this section that affect the state
10 agency, board, or commission or municipality, city, or county.

11
12 SECTION 2526. Arkansas Code § 8-4-234(b)(5), concerning short-term
13 activity authorization by the Director of the Arkansas Department of
14 Environmental Quality, is amended to read as follows:

15 (5) The ~~department~~ division shall waive twenty-five percent
16 (25%) of a fee assessed under this section to a state agency, board, or
17 commission or municipality, city, or county in a fiscal year.

18
19 SECTION 2527. The introductory language of Arkansas Code § 8-4-
20 234(c)(2), concerning short-term activity authorization by the Director of
21 the Arkansas Department of Environmental Quality, is amended to read as
22 follows:

23 (2) A state agency, board, or commission or municipality, city,
24 or county that submits a request for a waiver of the short-term activity
25 authorization fee under subdivision (c)(1) of this section shall provide the
26 ~~department~~ division:

27
28 SECTION 2528. Arkansas Code § 8-4-303(8) and (9), concerning the
29 definitions of "department" and "director" under the laws regarding air
30 pollution, are repealed.

31 ~~(8) "Department" means the Arkansas Department of Environmental~~
32 ~~Quality or its successor;~~

33 ~~(9) "Director" means the Director of the Arkansas Department of~~
34 ~~Environmental Quality or its successor;~~

35
36 SECTION 2529. Arkansas Code § 8-4-303(14), concerning the definition

1 of "state implementation plan" under the laws regarding air pollution, is
2 amended to read as follows:

3 (14) "State implementation plan" means a plan that specifies
4 measures to be used in the implementation of the state's duties under the
5 Clean Air Act, 42 U.S.C. § 7401 et seq., and that is developed by the
6 ~~department~~ division and submitted to the United States Environmental
7 Protection Agency for review and approval.

8

9 SECTION 2530. Arkansas Code § 8-4-307 is amended to read as follows:
10 8-4-307. Private rights unchanged.

11 (a) Persons other than the state or the ~~Arkansas Department~~ Division
12 of Environmental Quality shall not acquire actionable right by virtue of this
13 subchapter. The basis for proceedings that result from violation of any
14 standard, rule, or regulation promulgated by the Arkansas Pollution Control
15 and Ecology Commission shall inure solely to and shall be for the benefit of
16 the people of the state generally, and it is not intended to create in any
17 way new rights or to enlarge existing rights or to abrogate existing private
18 rights.

19 (b) A determination by the ~~department~~ division that air pollution or
20 air contamination exists or that any standard, rule, or regulation has been
21 violated, whether or not a proceeding or action is brought by the state,
22 shall not create, by reason thereof, any presumption of law or finding of
23 fact that shall inure to or be for the benefit of any person other than the
24 state.

25

26 SECTION 2531. Arkansas Code § 8-4-308(a)(1)(A), concerning
27 confidential industrial secrets obtained by the Arkansas Department of
28 Environmental Quality and the Arkansas Pollution Control and Ecology
29 Commission, is amended to read as follows:

30 (a)(1)(A) Any information that constitutes a trade secret under § 4-
31 75-601 et seq. that is obtained by the employees of the Department of Energy
32 and Environment, Arkansas Department ~~the Division~~ of Environmental Quality,
33 or the Arkansas Pollution Control and Ecology Commission ~~or its employees~~ in
34 the administration of this chapter shall be kept confidential, except for
35 emission data that is submitted to the state, local agency, or the United
36 States Environmental Protection Agency, which is otherwise obtained by any of

1 those agencies pursuant to the Clean Air Act.

2
3 SECTION 2532. Arkansas Code § 8-4-309 is amended to read as follows:

4 8-4-309. Construction limited – Exception.

5 (a) Nothing contained in this subchapter shall be construed as
6 amending or repealing § 20-21-201 et seq. concerning the control of radiation
7 or as granting to the ~~Arkansas Department~~ Division of Environmental Quality
8 or the Arkansas Pollution Control and Ecology Commission any jurisdiction or
9 authority with respect to air conditions existing solely within the property
10 boundaries of any plant, works, or shop or with respect to employer-employee
11 relationships as to health and safety hazards.

12 (b) Notwithstanding the preceding limitation, the ~~department~~ division
13 and the commission shall have jurisdiction and authority over air conditions
14 associated with the removal, encapsulation, enclosure, transportation, or
15 disposal of asbestos-containing material regardless of whether such removal,
16 encapsulation, enclosure, transportation, or disposal is conducted within the
17 property boundaries of any plant, works, or shop.

18
19 SECTION 2533. Arkansas Code § 8-4-310(a)(2), concerning unlawful
20 actions regarding air pollution, is amended to read as follows:

21 (2) To construct, install, use, or operate any source capable of
22 emitting air contaminants without having first obtained a permit to do so, if
23 required by the regulations of the Arkansas Pollution Control and Ecology
24 Commission, or to do so contrary to the provisions of any permit issued by
25 the ~~Arkansas Department~~ Division of Environmental Quality or after any such
26 permit has been suspended or revoked; or

27
28 SECTION 2534. The introductory language of Arkansas Code § 8-4-311(a),
29 concerning the powers and duties of the Arkansas Department of Environmental
30 Quality, is amended to read as follows:

31 (a) The ~~Arkansas Department~~ Division of Environmental Quality or its
32 successor shall have the power to:

33
34 SECTION 2535. Arkansas Code § 8-4-311(a)(9)(B), concerning the powers
35 and duties of the Arkansas Department of Environmental Quality, is amended to
36 read as follows:

1 (B) The ~~department~~ division is designated as the official
2 state air pollution control agency for such purposes;

3
4 SECTION 2536. Arkansas Code § 8-4-311(a)(12), concerning the powers
5 and duties of the Arkansas Department of Environmental Quality, is amended to
6 read as follows:

7 (12) Exercise all of the powers in the control of air pollution
8 granted to the ~~department~~ division for the control of water pollution under
9 §§ 8-4-101 – 8-4-106 and 8-4-201 – 8-4-229; and

10
11 SECTION 2537. Arkansas Code § 8-4-311(b)(1)(A), concerning the powers
12 and duties of the Arkansas Department of Environmental Quality, is amended to
13 read as follows:

14 (1)(A) Promulgate rules and regulations for implementing the
15 substantive statutes charged to the ~~department~~ division for administration.

16
17 SECTION 2538. Arkansas Code § 8-4-311(b)(3) and (4), concerning the
18 powers and duties of the Arkansas Department of Environmental Quality, are
19 amended to read as follows:

20 (3) Promulgate rules and regulations governing administrative
21 procedures for challenging or contesting ~~department~~ division actions;

22 (4) In the case of permitting or grants decisions, provide the
23 right to appeal a permitting or grants decision rendered by the Director of
24 the ~~Arkansas Department~~ Division of Environmental Quality or his or her
25 delegatee;

26
27 SECTION 2539. Arkansas Code § 8-4-311(b)(7), concerning the powers and
28 duties of the Arkansas Department of Environmental Quality, is amended to
29 read as follows:

30 (7) Make recommendations to the director regarding overall
31 policy and administration of the ~~department~~ division, provided, however, that
32 the director shall always remain within the plenary authority of the Governor
33 and the Secretary of the Department of Energy and Environment;

34
35 SECTION 2540. Arkansas Code § 8-4-311(b)(10)(A), concerning the powers
36 and duties of the Arkansas Department of Environmental Quality, is amended to

1 read as follows:

2 (10)(A) Adopt, after notice and public hearing, reasonable and
3 nondiscriminatory rules and regulations, including requiring a permit or
4 other regulatory authorization from the ~~department~~ division, before any
5 equipment causing the issuance of air contaminants may be built, erected,
6 altered, replaced, used, or operated, except in the case of repairs or
7 maintenance of equipment for which a permit has been previously used, and
8 revoke or modify any permit issued under this chapter or deny any permit when
9 it is necessary, in the opinion of the ~~department~~ division, to prevent,
10 control, or abate air pollution.

11

12 SECTION 2541. Arkansas Code § 8-4-311(b)(10)(D), concerning the powers
13 and duties of the Arkansas Department of Environmental Quality, is amended to
14 read as follows:

15 (D) Any person that is denied a permit by the ~~department~~
16 division or that has such permit revoked or modified shall be afforded an
17 opportunity for a hearing in connection therewith upon written application
18 made within thirty (30) days after service of notice of such denial,
19 revocation, or modification.

20

21 SECTION 2542. Arkansas Code § 8-4-311(b)(10)(F)(i), concerning the
22 powers and duties of the Arkansas Department of Environmental Quality, is
23 amended to read as follows:

24 (F)(i) An applicant or permit holder that has had a
25 complete application for a permit or for a modification of a permit pending
26 longer than the time specified in the state regulations promulgated pursuant
27 to Title V of the Clean Air Act Amendments of 1990, 42 U.S.C. § 7661 et seq.,
28 or any person that participated in the public participation process, and any
29 other person that could obtain judicial review of such actions under state
30 laws, may petition the commission for relief from ~~department~~ division
31 inaction.

32

33 SECTION 2543. Arkansas Code § 8-4-311(b)(10)(F)(iii), concerning the
34 powers and duties of the Arkansas Department of Environmental Quality, is
35 amended to read as follows:

36 (iii) For the purposes of judicial review, either a

1 commission denial or the failure of the ~~department~~ division to render a final
2 decision within thirty (30) days after the commission has granted a petition
3 shall constitute final agency action;

4
5 SECTION 2544. The introductory language of Arkansas Code § 8-4-312,
6 concerning factors in exercise of powers by the Arkansas Department of
7 Environmental Quality and the Arkansas Pollution Control and Ecology
8 Commission, is amended to read as follows:

9 In exercising their powers and responsibilities under this chapter, the
10 ~~Arkansas Department~~ Division of Environmental Quality and the Arkansas
11 Pollution Control and Ecology Commission shall take into account and give
12 consideration to the following factors:

13
14 SECTION 2545. Arkansas Code § 8-4-312(16), concerning factors in
15 exercise of powers by the Arkansas Department of Environmental Quality and
16 the Arkansas Pollution Control and Ecology Commission, is amended to read as
17 follows:

18 (16) Other factors that the ~~department~~ division or the
19 commission may find applicable.

20
21 SECTION 2546. Arkansas Code § 8-4-313(b)(1), concerning variance from
22 regulations by the Arkansas Pollution Control and Ecology Commission, is
23 amended to read as follows:

24 (b)(1) Any person seeking a variance shall do so by filing a petition
25 for a variance with the Director of the ~~Arkansas Department~~ Division of
26 Environmental Quality.

27
28 SECTION 2547. Arkansas Code § 8-4-314(b)(4), concerning the creation
29 of the Compliance Advisory Panel, is amended to read as follows:

30 (4) One (1) member selected by the Director of the ~~Arkansas~~
31 ~~Department~~ Division of Environmental Quality who shall serve as a nonvoting
32 member except when his or her vote is needed to break a tie vote.

33
34 SECTION 2548. Arkansas Code § 8-4-316(b)(1) and (2), concerning open
35 burning of storm debris, are amended to read as follows:

36 (B)(1) Open burning shall be:

1 (A) Limited to no more than four (4) sites per county as
2 designated by the county judge and pre-authorized by the ~~Arkansas Department~~
3 Division of Environmental Quality; and

4 (B) Reported in writing to the ~~department~~ division at
5 least three (3) days before the commencement of any open burning, unless the
6 reporting is waived by the Director of the ~~Arkansas Department~~ Division of
7 Environmental Quality.

8 (2)(A) For an initial or subsequent request for open burning,
9 the ~~department~~ division shall consider a maximum of four (4) sites pre-
10 authorized for open burning if the ~~department~~ division receives a signed
11 letter from the county judge certifying that the open burning sites pre-
12 authorized under subdivision (b)(1) of this section have not been materially
13 altered since the initial request.

14 (B) If the director determines that the scope of the
15 disaster warrants additional open burning sites, then the director may
16 authorize additional open burning sites.

17
18 SECTION 2549. Arkansas Code § 8-4-316(f), concerning open burning of
19 storm debris, is amended to read as follows:

20 (f) The ~~department~~ division may recommend alternative methods of
21 vegetative storm debris disposal, including the use of air curtain
22 incinerators or composting to the extent allowed under federal law.

23
24 SECTION 2550. Arkansas Code § 8-4-317(a), concerning state
25 implementation plans, is amended to read as follows:

26 (a) In developing and implementing a state implementation plan, the
27 ~~Arkansas Department~~ Division of Environmental Quality shall consider and take
28 into account the factors specified in § 8-4-312 and the Clean Air Act, 42
29 U.S.C. § 7401 et seq., as applicable.

30
31 SECTION 2551. Arkansas Code § 8-4-317(b)(1)(A), concerning state
32 implementation plans, is amended to read as follows:

33 (b)(1)(A) Whenever the ~~department~~ division proposes to finalize a
34 state implementation plan submittal for review and approval by the United
35 States Environmental Protection Agency, it shall cause notice of its proposed
36 action to be published in a newspaper of general circulation in the state.

1
2 SECTION 2552. Arkansas Code § 8-4-317(b)(1)(C)(ii), concerning state
3 implementation plans, is amended to read as follows:

4 (ii) For any standard or requirement that is
5 identical to the applicable Arkansas Pollution Control and Ecology Commission
6 regulation or federal regulation, the demonstration required under
7 subdivision (b)(1)(C)(i) of this section may be satisfied by reference to the
8 regulation. In all other cases, the ~~department~~ division shall provide its own
9 justification with appropriate reference to the scientific and engineering
10 literature considered or the written studies conducted by the ~~department~~
11 division.

12
13 SECTION 2553. Arkansas Code § 8-4-317(b)(2), concerning state
14 implementation plans, is amended to read as follows:

15 (2)(A) At the conclusion of the public comment period and before
16 transmittal to the Governor for submittal to the United States Environmental
17 Protection Agency, the ~~department~~ division shall provide written notice of
18 its final decision regarding the state implementation plan submittal to all
19 persons who submitted public comments.

20 (B)(i) The ~~department's~~ division's final decision shall
21 include a response to each issue raised in any public comments received
22 during the public comment period. The response shall manifest reasoned
23 consideration of the issues raised by the public comments and shall be
24 supported by appropriate legal, scientific, or practical reasons for
25 accepting or rejecting the substance of the comment in the ~~department's~~
26 division's final decision.

27 (ii) For the purposes of this section, response to
28 comments by the ~~department~~ division should serve the roles of both developing
29 the record for possible judicial review of a state implementation plan
30 decision and serving as a record for the public's review of the ~~department's~~
31 division's technical and legal interpretations on long-range regulatory
32 issues.

33 (iii) This section does not limit the ~~department's~~
34 division's authority to raise all relevant issues of regulatory concern upon
35 adjudicatory review by the commission of a particular state implementation
36 plan decision.

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SECTION 2554. Arkansas Code § 8-4-317(c), concerning state implementation plans, is amended to read as follows:

(c)(1) Only those persons that submit comments on the record during the public comment period have standing to appeal the final decision of the ~~department~~ division to the commission upon written application made within thirty (30) days after service of the notice under subdivision (b)(2)(A) of this section.

(2) An appeal under subdivision (c)(1) of this section shall be processed as a permit appeal under § 8-4-205. However, the decision of the Director of the ~~Arkansas Department~~ Division of Environmental Quality shall remain in effect during the appeal.

SECTION 2555. Arkansas Code § 8-4-318(a)(1), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(a)(1) The ~~Arkansas Department~~ Division of Environmental Quality shall develop NAAQS state implementation plans.

SECTION 2556. Arkansas Code § 8-4-318(b)(2), concerning implementation of the National Ambient Air Quality Standards, is amended to read as follows:

(2) Except as required for the permitting of major source construction under Part C or D of Title I of the Clean Air Act, 42 U.S.C. § 7470 et seq. or 42 U.S.C. § 7501 et seq., or otherwise voluntarily proposed and agreed to by the owner or operator of a stationary source, the ~~department~~ division shall not mandate for any stationary source measures for the attainment and maintenance of a National Ambient Air Quality Standard until such measures are included in the applicable NAAQS state implementation plan and the NAAQS state implementation plan has been submitted to the United States Environmental Protection Agency. However, this subdivision (b)(2) does not limit or delay the effectiveness of any applicable emission limit or standard promulgated by the United States Environmental Protection Agency under §§ 111, 112, or 129 of the Clean Air Act, 42 U.S.C. § 7411, 42 U.S.C. § 7412, or 42 U.S.C. § 7429.

SECTION 2557. The introductory language of Arkansas Code § 8-4-318(b)(3), concerning implementation of the National Ambient Air Quality

1 Standards, is amended to read as follows:

2 (3) Unless otherwise voluntarily proposed and agreed to by the
3 owner or operator of a stationary source, the ~~department~~ division shall not
4 require or consider air dispersion modeling of an air contaminant for which a
5 National Ambient Air Quality Standard has been established in air permitting
6 decisions for stationary sources except:

7

8 SECTION 2558. Arkansas Code § 8-4-318(b)(3)(B), concerning
9 implementation of the National Ambient Air Quality Standards, is amended to
10 read as follows:

11 (B) If necessary in the judgment of the ~~department~~
12 division, with respect to permitting of a temporary source under 42 U.S.C. §
13 7661c(e); or

14

15 SECTION 2559. The introductory language of Arkansas Code § 8-4-318(c),
16 concerning implementation of the National Ambient Air Quality Standards, is
17 amended to read as follows:

18 (c) This section does not prohibit the ~~department~~ division from
19 conducting and considering air dispersion modeling as necessary for the:

20

21 SECTION 2560. Arkansas Code § 8-5-201(2), concerning the definition of
22 "department" under the laws governing wastewater treatment plants, is
23 repealed.

24 ~~(2) "Department" means the Arkansas Department of Environmental~~
25 ~~Quality or its successor;~~

26

27 SECTION 2561. Arkansas Code § 8-5-201(3) and (4), concerning the
28 definitions of "license" and "licensing committee" under the laws governing
29 wastewater treatment plants, are amended to read as follows:

30 (3) "License" means a certificate of competency issued by the
31 ~~department~~ Division of Environmental Quality to operators who have met the
32 requirements of the licensing program;

33 (4) "Licensing committee" means the committee of operators and
34 technicians established in this subchapter to assist and advise the
35 ~~department~~ division in the examining and licensing of operators;

36

1 SECTION 2562. Arkansas Code § 8-5-202(b) and (c), concerning penalties
2 and injunctions under the laws governing wastewater treatment plants, are
3 amended to read as follows:

4 (b) Any violation of this subchapter shall be subject to injunction
5 proceedings brought by the ~~Arkansas Department~~ Division of Environmental
6 Quality in a court of competent jurisdiction.

7 (c) A violation of any provision of this subchapter or of any rule or
8 regulation promulgated under this subchapter is grounds for an administrative
9 revocation or suspension of the operator's license by the ~~department~~
10 division.

11
12 SECTION 2563. Arkansas Code § 8-5-203 is amended to read as follows:

13 8-5-203. Unlawful actions.

14 It shall be unlawful for any municipality, governmental subdivision,
15 public or private corporation, or other person to operate a public or private
16 wastewater treatment plant unless the competency of the operator is duly
17 licensed by the ~~Arkansas Department~~ Division of Environmental Quality under
18 the provisions of this subchapter. It shall further be unlawful for any
19 person to perform the duties of an operator of any such wastewater treatment
20 plant without being duly licensed under this subchapter.

21
22 SECTION 2564. Arkansas Code § 8-5-204(a)(1), concerning the creation
23 of a wastewater treatment facility licensing committee, is amended to read as
24 follows:

25 (a)(1) There is created and established a licensing committee to
26 advise and assist the Arkansas Pollution Control and Ecology Commission and
27 the ~~Arkansas Department~~ Division of Environmental Quality in the
28 administration of the licensing program.

29
30 SECTION 2565. Arkansas Code § 8-5-204(a)(2)(D), concerning the
31 creation of a wastewater treatment facility licensing committee, is amended
32 to read as follows:

33 (D) One (1) member shall be the Director of the ~~Arkansas~~
34 ~~Department~~ Division of Environmental Quality or a qualified member of his or
35 her staff who shall act as executive secretary of the committee.

36

1 SECTION 2566. The introductory language of Arkansas Code § 8-5-205(a),
2 concerning the powers and duties of the Arkansas Department of Environmental
3 Quality, is amended to read as follows:

4 (a) The ~~Arkansas Department~~ Division of Environmental Quality or its
5 successor shall be charged with the responsibility of administering and
6 enforcing this subchapter, with the advice and assistance of the licensing
7 committee, and is given and charged with the following powers and duties:
8

9 SECTION 2567. Arkansas Code § 8-5-206(b), concerning classification of
10 wastewater treatment plants, is amended to read as follows:

11 (b) The ~~Arkansas Department~~ Division of Environmental Quality shall
12 license persons as to their qualifications to supervise successfully the
13 proper operation of wastewater treatment plants within classifications based
14 on the recommendations of the licensing committee.
15

16 SECTION 2568. Arkansas Code § 8-5-207 is amended to read as follows:
17 8-5-207. Operators to be licensed.

18 In order to safeguard the public health and protect the waters of this
19 state from pollution, all operators in responsible charge of public or
20 private wastewater treatment plants shall be duly licensed and certified as
21 competent by the ~~Arkansas Department~~ Division of Environmental Quality under
22 the provisions of this subchapter and under such rules and regulations as the
23 Arkansas Pollution Control and Ecology Commission may adopt, with the advice
24 and assistance of the licensing committee, pursuant to the authority of this
25 subchapter. All rules and regulations promulgated pursuant to this subchapter
26 shall be reviewed by the House Committee on Public Health, Welfare, and Labor
27 and the Senate Committee on Public Health, Welfare, and Labor or appropriate
28 subcommittees of the House Committee on Public Health, Welfare, and Labor and
29 the Senate Committee on Public Health, Welfare, and Labor.
30

31 SECTION 2569. Arkansas Code § 8-5-208 is amended to read as follows:
32 8-5-208. License requirements.

33 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
34 license and certify all applicants for licenses under this subchapter who
35 satisfy the requirements of this subchapter and the rules and regulations
36 issued pursuant to this subchapter. Licenses shall be granted according to

1 the classification of wastewater treatment plants established under this
2 subchapter. Licenses shall be valid for a period of two (2) years and shall
3 be renewable upon application without examination.

4 (b) All operators of wastewater treatment plants within the state
5 shall apply to the ~~department~~ division for a license.

6 (c) In its discretion, the ~~department~~ division may waive the
7 requirements or any part of the requirements for formal examination of an
8 applicant for license if the applicant holds a valid license or certificate
9 from another state in which the requirements for license in the appropriate
10 classification are at least equal to the requirements set forth in this
11 subchapter and the rules and regulations issued pursuant to this subchapter.
12

13 SECTION 2570. Arkansas Code § 8-5-701(1), concerning the definition of
14 "chronic noncompliance" under the laws addressing chronic noncompliance, is
15 amended to read as follows:

16 (1) "Chronic noncompliance" means conditions described in this
17 subchapter that persist at a common sewage system after reasonable efforts by
18 the ~~Arkansas Department~~ Division of Environmental Quality to obtain
19 compliance with applicable laws or regulations in one (1) of the following:

20 (A) Failure to obtain a permit as required by law;

21 (B) Four (4) or more permit violations within a six-month
22 period as set out in the permit issued by the ~~department~~ division;

23 (C) Failure to maintain the services of a certified
24 wastewater treatment operator, where applicable; or

25 (D) Demonstrable failure to operate the common sewage
26 system so as to prevent the discharge of waterborne pollutants in
27 unacceptable concentrations, as defined in the individual permit or the
28 state's water quality standards, to the surface waters or groundwater of the
29 state; and
30

31 SECTION 2571. Arkansas Code § 8-5-702(a), concerning remedies for
32 chronic violations by common sewage systems, is amended to read as follows:

33 (a) The ~~Arkansas Department~~ Division of Environmental Quality may
34 petition a circuit court with competent jurisdiction and proper venue to
35 remedy chronic violations by any common sewage system.
36

1 SECTION 2572. Arkansas Code § 8-5-702(c)(1), concerning remedies for
2 chronic violations by common sewage systems, is amended to read as follows:

3 (c)(1) If the circuit court finds that circumstances prevent the owner
4 or operator of a common sewage system from operating and maintaining the
5 system in compliance with the law, the ~~Arkansas Department~~ Division of
6 Environmental Quality shall nominate two (2) possible receivers, of which the
7 court may appoint one (1) to operate the common sewage system, subject to the
8 continuing jurisdiction of the circuit court.

9
10 SECTION 2573. Arkansas Code § 8-5-702(d), concerning remedies for
11 chronic violations by common sewage systems, is amended to read as follows:

12 (d)(1) If the circuit court determines that the permitted or
13 registered entity cannot equitably satisfy the provisions of this subchapter
14 or that no feasible alternatives exist, the circuit court shall so certify
15 that determination to the ~~Arkansas Department~~ Division of Environmental
16 Quality, which shall terminate the entity's permit, and the circuit court
17 shall request a review by the ~~Director~~ Secretary of the Department of Health
18 of the public health impact of an order compelling the entity supplying
19 potable water to the common sewage system to cut off the flow of potable
20 water.

21 (2)(A) If the ~~Director of the Department of Health~~ secretary
22 determines that a greater health hazard exists from the malfunctioning common
23 sewage system than from the discontinuance of potable water service, then the
24 ~~Director of the Department of Health~~ secretary shall so certify this
25 determination to the circuit court.

26 (B) The circuit court shall then issue an order compelling
27 the receiver to notify all users of such common sewage system, including
28 landowners and tenants, of the ~~Director of the Department of Health's~~
29 secretary's determination.

30 (C) Upon evidence of reasonable notice, the circuit court
31 shall then issue the order to cut off the flow of potable water.

32
33 SECTION 2574. The introductory language of Arkansas Code § 8-5-702(e),
34 concerning remedies for chronic violations by common sewage systems, is
35 amended to read as follows:

36 (e) The ~~Arkansas Department~~ Division of Environmental Quality is

1 authorized to institute a civil action in any court of competent jurisdiction
2 to accomplish any or all of the following:

3
4 SECTION 2575. Arkansas Code § 8-5-702(e)(3), concerning remedies for
5 chronic violations by common sewage systems, is amended to read as follows:

6 (3) Recover all costs, expenses, and damages to the ~~Arkansas~~
7 ~~Department~~ Division of Environmental Quality and any other agency or
8 subdivision of the state in enforcing or effectuating the provisions of this
9 subchapter, including, but not limited to, natural resource damages;

10
11 SECTION 2576. Arkansas Code § 8-5-702(f), concerning remedies for
12 chronic violations by common sewage systems, is amended to read as follows:

13 (f)(1) In addition to the remedies provided in subsections (a)-(e) of
14 this section, the ~~Arkansas Department~~ Division of Environmental Quality shall
15 have the authority to prohibit new or additional sewer line connections onto
16 a common sewage system meeting the criteria established by § 8-5-701.

17 (2) Once the ~~Arkansas Department~~ Division of Environmental
18 Quality is satisfied that the common sewage system is in compliance with
19 state and federal law, the ~~Arkansas Department~~ Division of Environmental
20 Quality may authorize new or additional sewer line connections onto the
21 common sewage system.

22
23 SECTION 2577. Arkansas Code § 8-5-703 is amended to read as follows:
24 8-5-703. Financial assurance requirements for subsequently permitted
25 common sewage systems.

26 (a)(1)(A) The ~~Arkansas Department~~ Division of Environmental Quality
27 may require a permitted common sewage system that is in chronic noncompliance
28 to demonstrate to the ~~department~~ division its financial ability to cover the
29 estimated costs of operating and maintaining the common sewage system for a
30 minimum period of five (5) years.

31 (B) The ~~department~~ division may require the permitted
32 common sewage system that is in chronic noncompliance to submit a cost
33 estimate for a third party to operate and maintain the common sewage system
34 each year for a period of five (5) years.

35 (2) The ~~department~~ division shall not modify or renew a National
36 Pollutant Discharge Elimination System permit or state permit for a common

1 sewage system if the common sewage system facility is in chronic
2 noncompliance and the common sewage system facility proposes to use new
3 technology that in the discretion of the ~~department~~ division cannot be
4 verified to meet permit requirements.

5 (b) The applicant's financial ability to operate and maintain the
6 common sewage system for a period of five (5) years shall be demonstrated to
7 the ~~department~~ division by:

8 (1) Obtaining insurance that specifically covers operation and
9 maintenance costs;

10 (2) Obtaining a letter of credit;

11 (3) Obtaining a surety bond;

12 (4) Obtaining a trust fund or an escrow account; or

13 (5) Using a combination of insurance, letter of credit, surety
14 bond, trust fund, or escrow account.

15 (c) The ~~department~~ division may require an amount of financial
16 assurance that exceeds the cost estimate submitted by the applicant.

17 (d) A financial instrument required by this section shall be posted to
18 the benefit of the ~~department~~ division and shall remain in effect for the
19 life of the permit.

20 (e) It is explicitly understood that the ~~department~~ division shall not
21 directly operate and shall not be responsible for the operation of any sewage
22 system.

23 (f) This section does not restrict local and county government
24 entities from enacting more stringent ordinances regulating nonmunicipal
25 domestic treatment sewage systems in Arkansas.

26

27 SECTION 2578. Arkansas Code § 8-5-802 is amended to read as follows:

28 8-5-802. Purpose.

29 It is the purpose of this subchapter to authorize the ~~Arkansas~~
30 ~~Department~~ Division of Environmental Quality to establish and administer a
31 revolving loan fund to encourage the investment in pollution control and
32 prevention technologies in Arkansas. The fund will promote sustainable
33 economic development in Arkansas by establishing a publicly capitalized fund
34 to make loans to small businesses for projects to meet regulatory mandates in
35 pollution control, to adopt pollution prevention technologies, or to
36 implement waste reduction practices.

1
2 SECTION 2579. Arkansas Code § 8-5-803(3) and (4), concerning the
3 definitions of "department" and "director" under the laws establishing the
4 Small Business Revolving Loan Fund for Pollution Control and Prevention
5 Technologies Act, are repealed.

6 ~~(3) "Department" means the Arkansas Department of Environmental~~
7 ~~Quality;~~

8 ~~(4) "Director" means the executive head and active administrator~~
9 ~~of the Arkansas Department of Environmental Quality;~~

10
11 SECTION 2580. Arkansas Code § 8-5-804 is amended to read as follows:
12 8-5-804. Eligible activities.

13 (a) Moneys deposited into the Small Business Revolving Loan Fund
14 within the ~~Arkansas Department~~ Division of Environmental Quality may be:

15 (1) Loaned to eligible participants to pay the direct costs of
16 projects which are designed to correct or avoid violations of federal or
17 state environmental regulations and have received a certificate of need from
18 the ~~department~~ division; or

19 (2) Expended to pay costs incurred by the ~~department~~ division to
20 provide management of lending activities.

21 (b)(1) It is the purpose of this subchapter to authorize the
22 ~~department~~ division to establish and administer a revolving loan fund to
23 encourage the investment in pollution control, pollution prevention, and
24 waste reduction practices in Arkansas.

25 (2) Such a fund will promote sustainable economic development in
26 Arkansas by establishing a publicly capitalized revolving loan fund to make
27 loans to small businesses for projects to meet regulatory mandates in
28 pollution control or to adopt pollution prevention technologies.

29 (3) Operating expenses associated with proofing a process change
30 or equipment modification would be an eligible loan activity.

31
32 SECTION 2581. Arkansas Code § 8-5-805(a)(1), concerning eligible
33 applications, is amended to read as follows:

34 (1) Employ one hundred (100) or fewer individuals, including
35 both full-time and part-time employees, through direct hiring or contract,
36 including affiliates and subsidiaries, at the time an application for a loan

1 is received by the ~~Arkansas Department~~ Division of Environmental Quality;

2
3 SECTION 2582. Arkansas Code § 8-5-805(a)(3), concerning eligible
4 applications, is amended to read as follows:

5 (3) Submit an application supplied by the ~~department~~ division
6 including any supporting documents, instruments, or other documents requested
7 by the ~~department~~ division for the purposes of recommending approval or
8 disapproval of a loan described in this section.

9
10 SECTION 2583. Arkansas Code § 8-5-805(b)(1), concerning eligible
11 applications, is amended to read as follows:

12 (b)(1) Until all delinquent fees stated in this subsection or
13 otherwise owed to the ~~department~~ division are paid in full and no balance is
14 due, the Director of the ~~Arkansas Department~~ Division of Environmental
15 Quality shall not approve any loan application.

16
17 SECTION 2584. Arkansas Code § 8-5-806(c)(1), concerning terms of the
18 revolving loan, is amended to read as follows:

19 (1) Established by the ~~Arkansas Department~~ Division of
20 Environmental Quality at or below market rate; and

21
22 SECTION 2585. The introductory language of Arkansas Code § 8-5-
23 806(e)(1), concerning terms of the revolving loan, is amended to read as
24 follows:

25 (e)(1) The ~~department~~ division may:

26
27 SECTION 2586. Arkansas Code § 8-5-806(f), concerning terms of the
28 revolving loan, is amended to read as follows:

29 (f) The ~~department~~ division may bring any lawful action to recover any
30 loan that is in default.

31
32 SECTION 2587. The introductory language of Arkansas Code § 8-5-807(a),
33 concerning the Small Business Revolving Loan Fund, is amended to read as
34 follows:

35 (a) There is created within the ~~Arkansas Department~~ Division of
36 Environmental Quality a revolving loan fund:

1
2 SECTION 2588. Arkansas Code § 8-5-807(a)(3), concerning the Small
3 Business Revolving Loan Fund, is amended to read as follows:

4 (3) To be used as a revolving fund by the ~~department~~ division
5 for making loans to eligible participants to pay the direct costs of projects
6 that are designed to correct or avoid violations of federal or state
7 environmental regulations and have received a certificate of need from the
8 ~~department~~ division or to pay costs incurred by the ~~department~~ division to
9 provide management of lending activities.

10
11 SECTION 2589. Arkansas Code § 8-5-807(b)(2)(B), concerning the Small
12 Business Revolving Loan Fund, is amended to read as follows:

13 (B) All moneys received by the ~~department~~ division upon
14 repayment of loans made from the furnishing of funds for loans under the
15 program created by this subchapter;

16
17 SECTION 2590. Arkansas Code § 8-5-807(c), concerning the Small
18 Business Revolving Loan Fund, is amended to read as follows:

19 (c)(1) Subject to the provisions of this subchapter, the ~~department~~
20 division is vested with full power, authority, and jurisdiction over the
21 Small Business Revolving Loan Fund, including all moneys and property or
22 securities belonging to the Small Business Revolving Loan Fund.

23 (2) The ~~department~~ division may invest the Small Business
24 Revolving Loan Fund in direct general obligations of the United States, in
25 certificates of deposit or savings accounts in an amount not to exceed the
26 capital funds, represented by capital, surplus, and undivided profits in
27 financial institutions located in Arkansas that are insured by an agency of
28 the United States Government, and in repurchase agreements that are
29 collateralized by direct general obligations of the United States or by
30 bonds, notes, debentures, participation certificates, or other obligations
31 issued by an agency of the United States, the principal and interest of which
32 are guaranteed by the agency or the United States.

33
34 SECTION 2591. Arkansas Code § 8-5-808 is amended to read as follows:
35 8-5-808. Administration of the program.

36 The ~~Arkansas Department~~ Division of Environmental Quality will manage

1 the program through its Small Business Assistance Program. The program is
2 authorized to delegate the management of the Small Business Revolving Loan
3 Fund. The ~~department~~ division shall retain the power to issue certificates of
4 need for eligible projects and shall not delegate such authority.

5
6 SECTION 2592. Arkansas Code § 8-5-902(2), concerning the definition of
7 "department" under the laws regarding long-term environmental projects, is
8 repealed.

9 ~~(2) "Department" means the Arkansas Department of Environmental~~
10 ~~Quality;~~

11
12 SECTION 2593. The introductory language of Arkansas Code § 8-5-903(a),
13 concerning the procedures for approval of environmental projects, contents of
14 applications, and public notice, is amended to read as follows:

15 (a) A petitioner seeking approval of a change in water quality
16 standards to accommodate a long-term improvement project shall file with the
17 ~~Arkansas Department~~ Division of Environmental Quality a notice of intent,
18 which includes as a minimum:

19
20 SECTION 2594. Arkansas Code § 8-5-903(b) and (c), concerning the
21 procedures for approval of environmental projects, contents of applications,
22 and public notice, are amended to read as follows:

23 (b) The ~~department~~ division shall cause notice of the proposed project
24 and associated water quality standard changes described in subsection (a) of
25 this section to be published for public notice and comment in the same manner
26 as provided for permit applications in § 8-4-203(c), and shall notify the
27 public that the details of the proposed project are available for public
28 review.

29 (c)(1) After considering comments from the public, the ~~department~~
30 division shall notify the petitioner as to whether the proposed project is
31 approved or denied.

32 (2) The ~~department~~ division may deny approval of a project if it
33 reasonably concludes that:

- 34 (A) The plan is not complete;
35 (B) The plan is not technically sound;
36 (C) The schedule is unrealistic;

1 (D) The plan will not have an overall beneficial effect
2 for the environment; or

3 (E) For other appropriate reasons.

4 (3) Any ~~department~~ division determination on the approval or
5 denial of a project is subject to the appeal procedures applicable to
6 permitting decisions set out in § 8-4-205.

7
8 SECTION 2595. Arkansas Code § 8-5-904(b) and (c), concerning the
9 modification of water quality standards, are amended to read as follows:

10 (b)(1) Once the commission approves a water quality standard
11 modification, the ~~Arkansas Department~~ Division of Environmental Quality shall
12 ensure that conditions and limitations designed to achieve compliance with
13 the plan are established in applicable discharge permits, consent
14 administrative orders, or such other enforcement measures deemed appropriate
15 by the ~~department~~ division.

16 (2) The ~~department~~ division may allow modifications by the
17 petitioner to the remediation plan and schedule as is deemed appropriate,
18 provided that any such modifications to the original remedial action plan
19 shall not render the project significantly less protective of the applicable
20 use subcategory.

21 (3) Should the ~~department~~ division find that the petitioner is
22 not acting in good faith to complete the project in accordance with the
23 approved plan, applicable and appropriate enforcement authority may be
24 exercised subject to appeal to the commission.

25 (c) The ~~department~~ division or the petitioner shall report annually to
26 the commission on the progress of the project.

27
28 SECTION 2596. The introductory language of Arkansas Code § 8-6-
29 203(2)(A), concerning the definition of "hazardous waste" under the Arkansas
30 Solid Waste Management Act, is amended to read as follows:

31 (2)(A) "Hazardous waste" means any waste or combination of
32 wastes of a solid, liquid, contained gaseous, or semisolid form that, because
33 of its quantity, concentration, or physical, chemical, or infectious
34 characteristics, may in the judgment of the ~~Arkansas Department~~ Division of
35 Environmental Quality:

1 SECTION 2597. Arkansas Code § 8-6-203(5)(B)(i), concerning the
2 definition of "household hazardous waste storage or processing center" under
3 the Arkansas Solid Waste Management Act, is amended to read as follows:

4 (i) Hazardous waste treatment, storage, and disposal
5 facilities permitted by the ~~department~~ division under the Resource
6 Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;

7
8 SECTION 2598. Arkansas Code § 8-6-204(a)(1)(A), concerning criminal,
9 civil, and administrative penalties under the Arkansas Solid Waste Management
10 Act, is amended to read as follows:

11 (1)(A) Any person who violates any provision of this subchapter,
12 who commits any unlawful act under this subchapter, or who violates any rule,
13 regulation, or order of the Arkansas Pollution Control and Ecology Commission
14 or the ~~Arkansas Department~~ Division of Environmental Quality shall be guilty
15 of a misdemeanor.

16
17 SECTION 2599. Arkansas Code § 8-6-204(a)(2)(A)(i), concerning
18 criminal, civil, and administrative penalties under the Arkansas Solid Waste
19 Management Act, is amended to read as follows:

20 (i) Violate any provision of this subchapter, commit
21 any unlawful act under this subchapter, or violate any rule, regulation, or
22 order of the commission or ~~department~~ division, and leave the state or remove
23 his or her person from the jurisdiction of this state;

24
25 SECTION 2600. The introductory language of Arkansas Code § 8-6-204(b),
26 concerning criminal, civil, and administrative penalties under the Arkansas
27 Solid Waste Management Act, is amended to read as follows:

28 (b) Civil Penalties. The ~~department~~ division is authorized to
29 institute a civil action in any court of competent jurisdiction to accomplish
30 any or all of the following:

31
32 SECTION 2601. Arkansas Code § 8-6-204(b)(3), concerning criminal,
33 civil, and administrative penalties under the Arkansas Solid Waste Management
34 Act, is amended to read as follows:

35 (3) Recover all costs, expenses, and damages to the ~~department~~
36 division and any other agency or subdivision of the state in enforcing or

1 effectuating the provisions of this subchapter, including natural resource
2 damages;

3

4 SECTION 2602. Arkansas Code § 8-6-204(c), concerning criminal, civil,
5 and administrative penalties under the Arkansas Solid Waste Management Act,
6 is amended to read as follows:

7 (c) Any person who violates any provision of this subchapter and
8 regulations, rules, permits, or plans issued pursuant to this subchapter may
9 be assessed an administrative civil penalty not to exceed ten thousand
10 dollars (\$10,000) per violation. Each day of a continuing violation may be
11 deemed a separate violation for purposes of civil penalty assessment. No
12 civil penalty may be assessed until the person charged with the violation has
13 been given the opportunity for a hearing in accordance with regulations
14 adopted by the commission. All hearings and appeals arising under this
15 subchapter shall be conducted in accordance with the procedures prescribed by
16 §§ 8-4-205, 8-4-212, and 8-4-218 – 8-4-229. These administrative procedures
17 may also be used to recover all costs, expenses, and damages to the
18 ~~department~~ division and any other agency or subdivision of the state in
19 enforcing or effectuating the provisions of this subchapter, including
20 natural resource damages.

21

22 SECTION 2603. Arkansas Code § 8-6-204(e)(1), concerning criminal,
23 civil, and administrative penalties under the Arkansas Solid Waste Management
24 Act, is amended to read as follows:

25 (e)(1) All moneys collected as reimbursement for expenses, costs, and
26 damages to the ~~department~~ division shall be deposited into the operating fund
27 of the ~~department~~ division.

28

29 SECTION 2604. Arkansas Code § 8-6-204(e)(3), concerning criminal,
30 civil, and administrative penalties under the Arkansas Solid Waste Management
31 Act, is amended to read as follows:

32 (3)(A) The Director of the ~~Arkansas Department~~ Division of
33 Environmental Quality, in his or her discretion, may authorize in-kind
34 services or cash contributions as partial mitigation of cash penalties for
35 use in projects or programs designed to advance environmental interests.

36 (B) The violator may provide in-kind services or cash

1 contributions as directed by the ~~department~~ division by utilizing the
2 violator's own expertise, by hiring and compensating subcontractors to
3 perform the in-kind services, by arranging and providing financing for the
4 in-kind services, or by other financial arrangements initiated by the
5 ~~department~~ division in which the violator and the ~~department~~ division retain
6 no monetary benefit, however remote.

7 (C) The in-kind services shall not duplicate or augment
8 services already provided by the ~~department~~ division through appropriations
9 of the General Assembly.

10
11 SECTION 2605. Arkansas Code § 8-6-205(a)(1)-(3), concerning illegal
12 actions, rebuttal presumption, and acts or omissions by a third party under
13 the Arkansas Solid Waste Management Act, are amended to read as follows:

14 (1) To violate any provision of this subchapter or any rule,
15 regulation, or order of the Arkansas Pollution Control and Ecology Commission
16 issued pursuant to this subchapter or of a permit issued under this
17 subchapter by the ~~Arkansas Department~~ Division of Environmental Quality;

18 (2) To construct, install, alter, modify, use, or operate any
19 solid waste processing or disposal facility or disposal site without a permit
20 from the ~~department~~ division;

21 (3) To dispose of solid wastes at any disposal site or facility
22 other than a disposal site or facility for which a permit has been issued by
23 the ~~department~~ division. However, no provision of this subchapter shall be
24 construed so as to prevent an individual from disposing of solid wastes
25 resulting from his or her own household activities on his or her own land if
26 the disposal does not create a public or private nuisance or a hazard to
27 health and does not violate a city ordinance or other law and does not
28 involve the open dumping of garbage;

29
30 SECTION 2606. Arkansas Code § 8-6-205(a)(5), concerning illegal
31 actions, rebuttal presumption, and acts or omissions by a third party under
32 the Arkansas Solid Waste Management Act, is amended to read as follows:

33 (5) To sort, collect, transport, process, or dispose of solid
34 waste contrary to the rules, regulations, or orders of the ~~department~~
35 division or in such a manner or place as to create or be likely to create a
36 public nuisance or a public health hazard or to cause or be likely to cause

1 water or air pollution within the meaning of the Arkansas Water and Air
2 Pollution Control Act, § 8-4-101 et seq.

3
4 SECTION 2607. The introductory language of Arkansas Code § 8-6-207(a),
5 concerning the powers and duties of the Arkansas Department of Environmental
6 Quality, is amended to read as follows:

7 (a) The ~~Arkansas Department~~ Division of Environmental Quality or its
8 successor shall have the following powers and duties:

9
10 SECTION 2608. Arkansas Code § 8-6-207(a)(6) and (7), concerning the
11 powers and duties of the Arkansas Department of Environmental Quality, are
12 amended to read as follows:

13 (6) To issue, continue in effect, revoke, modify, or deny, under
14 such conditions as the ~~department~~ division may prescribe, permits for the
15 establishment, construction, operation, or maintenance of solid waste
16 management systems, disposal sites, and facilities;

17 (7) To make investigations, inspections, and to hold such
18 hearings, after notice, as the ~~department~~ division may deem necessary or
19 advisable for the discharge of duties under this subchapter and to ensure
20 compliance with this subchapter and any orders, rules, and regulations issued
21 pursuant thereto;

22
23 SECTION 2609. Arkansas Code § 8-6-207(a)(9), concerning the powers and
24 duties of the Arkansas Department of Environmental Quality, is amended to
25 read as follows:

26 (9) To institute proceedings in the name of the ~~department~~
27 division in any court of competent jurisdiction to compel compliance with and
28 to restrain violation of the provisions of this subchapter or any rules,
29 regulations, and orders issued pursuant thereto and to require the taking of
30 such remedial measures for solid waste disposal as may be necessary or
31 appropriate to implement or effectuate the provisions and purposes of this
32 subchapter;

33
34 SECTION 2610. Arkansas Code § 8-6-207(a)(12), concerning the powers
35 and duties of the Arkansas Department of Environmental Quality, is amended to
36 read as follows:

1 (12) To issue, continue in effect, revoke, modify, or deny,
2 under such conditions as the ~~department~~ division may prescribe, permits for
3 the establishment, construction, operation, or maintenance of transfer
4 stations;

5
6 SECTION 2611. Arkansas Code § 8-6-207(a)(15), concerning the powers
7 and duties of the Arkansas Department of Environmental Quality, is amended to
8 read as follows:

9 (15) Upon the petition of a solid waste board or upon the
10 ~~department's~~ division's own initiative to revoke, modify, or deny a permit
11 for a solid waste disposal facility or a permit for any other element of a
12 solid waste management system based upon noncompliance with an approved
13 regional solid waste management plan of a solid waste board.

14
15 SECTION 2612. Arkansas Code § 8-6-207(b)(1)(A), concerning the powers
16 and duties of the Arkansas Department of Environmental Quality, is amended to
17 read as follows:

18 (1)(A) Promulgation of rules and regulations implementing the
19 substantive statutes charged to the ~~department~~ division for administration.

20
21 SECTION 2613. Arkansas Code § 8-6-207(b)(3) and (4), concerning the
22 powers and duties of the Arkansas Department of Environmental Quality, are
23 amended to read as follows:

24 (3) Promulgation of rules and regulations governing
25 administrative procedures for challenging or contesting ~~department~~ division
26 actions;

27 (4) In the case of permitting or grants decisions, providing the
28 right to appeal a permitting or grants decision rendered by the Director of
29 the ~~Arkansas Department~~ Division of Environmental Quality or his or her
30 delegatee;

31
32 SECTION 2614. Arkansas Code § 8-6-207(b)(7), concerning the powers and
33 duties of the Arkansas Department of Environmental Quality, is amended to
34 read as follows:

35 (7) Make recommendations to the director regarding overall
36 policy and administration of the ~~department~~ division, provided, however, that

1 the director shall always remain within the plenary authority of the Governor
2 and the Secretary of the Department of Energy and Environment;

3
4 SECTION 2615. Arkansas Code § 8-6-214 is amended to read as follows:

5 8-6-214. Records and examinations.

6 (a) The owner or operator of any permitted facility or site shall
7 establish and maintain such records, make such reports, install, use, and
8 maintain such monitoring equipment or methods, take such samples, perform
9 such tests, and provide such other information to the ~~Arkansas Department~~
10 Division of Environmental Quality as the Director of the ~~Arkansas Department~~
11 Division of Environmental Quality may reasonably require.

12 (b) The ~~department~~ division or any authorized employee or agent may
13 examine and copy any books, papers, records, or memoranda pertaining to the
14 operation of the facility or site.

15 (c) The ~~department~~ division or any authorized employee or agent may
16 enter upon any public or private property for the purpose of obtaining
17 information or conducting surveys or investigations necessary or appropriate
18 for the purpose of this subchapter.

19 (d)(1)(A) Any records, reports, or information obtained under this
20 subchapter and any permits, permit applications, and related documentation
21 shall be available to the public for inspection and copying.

22 (B) Upon a satisfactory showing to the director that the
23 records, reports, permits, documentation, or information, or any part
24 thereof, if made public, would divulge methods or processes entitled to
25 protection as trade secrets, then the director shall consider, treat, and
26 protect such records, reports, or information as confidential.

27 (2)(A) As necessary to carry out the provisions of this
28 subchapter, information afforded confidential treatment may be transmitted
29 under a continuing restriction of confidentiality to other officers,
30 employees, or authorized representatives of this state or of the United
31 States if the owner or operator of the facility to which the information
32 pertains is informed at least two (2) weeks prior to the transmittal and if
33 the information has been acquired by the ~~department~~ division under the
34 provisions of this subchapter.

35 (B) The provisions of this subdivision (d)(2) shall not be
36 construed to limit the ~~department's~~ division's authority to release

1 confidential information during emergency situations.

2 (3) Any violation of this subsection shall be unlawful and
3 constitute a misdemeanor.

4
5 SECTION 2616. Arkansas Code § 8-6-220(a)(2)(A), concerning yard waste,
6 is amended to read as follows:

7 (2)(A) If authorized by the ~~Arkansas Department~~ Division of
8 Environmental Quality through a permit modification process including a
9 public notice and comment period, yard waste may be accepted by a permitted
10 solid waste landfill that operates a landfill gas-to-energy system for the
11 recovery and use of landfill gas as a renewable energy fuel source.

12
13 SECTION 2617. The introductory language of Arkansas Code § 8-6-
14 220(a)(2)(B), concerning yard waste, is amended to read as follows:

15 (B) The ~~department~~ division shall consider, at a minimum,
16 the following before authorizing yard waste to be accepted by a solid waste
17 landfill for disposal:

18
19 SECTION 2618. Arkansas Code § 8-6-220(a)(2)(B)(xiii), concerning yard
20 waste, is amended to read as follows:

21 (xiii) Other information as may be required by the
22 ~~department~~ division.

23
24 SECTION 2619. Arkansas Code § 8-6-220(b)(2), concerning yard waste, is
25 amended to read as follows:

26 (2) Such choices of yard waste reduction or usage shall be
27 submitted to the ~~department~~ division for approval and shall become an
28 integral part of the district's solid waste management plan.

29
30 SECTION 2620. Arkansas Code § 8-6-223(a), concerning a required permit
31 for household hazardous waste storage or processing centers, is amended to
32 read as follows:

33 (a) It is unlawful for a person to own or operate a household
34 hazardous waste storage or processing center, as defined in § 8-6-203,
35 without first obtaining from the ~~Arkansas Department~~ Division of
36 Environmental Quality a transfer station permit or another permit that the

1 ~~department~~ division deems appropriate and that meets the requirements of this
2 section.

3

4 SECTION 2621. Arkansas Code § 8-6-223(b)(1), concerning a required
5 permit for household hazardous waste storage or processing centers, is
6 amended to read as follows:

7 (b)(1) The ~~department~~ division shall not issue, modify, or renew a
8 permit for a household hazardous waste storage or processing center regulated
9 under this section without the permit applicant's first demonstrating to the
10 ~~department's~~ division's satisfaction the applicant's financial ability to
11 ensure proper removal and disposal of household hazardous waste located at
12 the household hazardous waste storage or processing center under this
13 section.

14

15 SECTION 2622. Arkansas Code § 8-6-223(c)(6), concerning a required
16 permit for household hazardous waste storage or processing centers, is
17 amended to read as follows:

18 (6) Any other financial instrument approved by the Director of
19 the ~~Arkansas Department~~ Division of Environmental Quality.

20

21 SECTION 2623. Arkansas Code § 8-6-223(d)-(j), concerning a required
22 permit for household hazardous waste storage or processing centers, are
23 amended to read as follows:

24 (d) A financial instrument required by this section shall:

25 (1) Be posted to the benefit of the ~~department~~ division;

26 (2) Provide that the financial instrument cannot be cancelled
27 without sixty (60) days' prior written notice addressed to the ~~department's~~
28 division's legal division chief as evidenced by a signed, certified mail with
29 a return receipt request; and

30 (3) Be reviewed by the ~~department~~ division upon receipt of the
31 cancellation notice to determine whether the ~~department~~ division should
32 initiate procedures to revoke or suspend the household hazardous waste
33 storage or processing center's permit and whether the ~~department~~ division
34 should take possession of the funds guaranteed by the financial assurance
35 mechanism.

36 (e) Before the ~~department~~ division may release a financial assurance

1 mechanism, the ~~department~~ division shall inspect the household hazardous
2 waste storage or processing center to determine to the ~~department's~~
3 division's satisfaction that no household hazardous waste is located at the
4 household hazardous waste storage or processing center.

5 (f) The ~~department~~ division is not responsible for the removal or
6 disposal of household hazardous waste regulated under this section.

7 (g) Before an application for a permit is submitted to the ~~department~~
8 division, a household hazardous waste storage or processing center shall
9 apply for a certificate of need from the regional solid waste management
10 board that has jurisdiction over the proposed site and shall follow the
11 procedures and rules established under § 8-6-708.

12 (h) A household hazardous waste storage or processing center shall
13 submit a permit application to the ~~department~~ division within ninety (90)
14 days of the approval of the certificate of need.

15 (i) If a certificate of need is not approved under subsection (g) of
16 this section or a final determination is made by the ~~department~~ division
17 denying the permit application, the household hazardous waste storage or
18 processing center shall cease all collection, storage, or processing activity
19 and properly dispose of or recycle all materials within ninety (90) days.

20 ~~(j) By October 1, 2011, each household hazardous waste storage or~~
21 ~~processing center operating before July 27, 2011, shall:~~

22 ~~(1) Submit to the department a plan to remove and dispose of all~~
23 ~~household hazardous waste located at the household hazardous waste storage or~~
24 ~~processing center in accordance with this section;~~

25 ~~(2) Submit to the department a detailed cost estimate to remove~~
26 ~~and dispose of the household hazardous waste located at the household~~
27 ~~hazardous waste storage or processing center that meets the requirements of~~
28 ~~this section and is approved by the department; and~~

29 ~~(3) Obtain financial assurance in accordance with subdivision~~
30 ~~(b)(2) of this section.~~

31
32 SECTION 2624. Arkansas Code § 8-6-405 is amended to read as follows:
33 8-6-405. Injunction.

34 In addition to all other remedies provided by this subchapter, the
35 ~~Arkansas Department~~ Division of Environmental Quality, the Attorney General,
36 the prosecuting attorney of a county where any violation of any provision of

1 this subchapter occurs, or any citizen, resident, or taxpayer of the county
2 where a violation of any provision of this subchapter occurs may apply to the
3 circuit court or the judge in vacation of the county where the alleged
4 violation occurred for an injunction to restrain, prevent, or abate the
5 maintenance and storage of litter, junk motor vehicles, old vehicle tires, or
6 inoperative or discarded household appliances in violation of any provision
7 of this subchapter.

8
9 SECTION 2625. Arkansas Code § 8-6-406(a)(1), concerning littering and
10 commercial littering, is amended to read as follows:

11 (1) The property has been designated by the ~~Arkansas Department~~
12 Division of Environmental Quality as a permitted disposal site;

13
14 SECTION 2626. Arkansas Code § 8-6-503(2) and (3), concerning the
15 definitions of "department" and "director" under the Illegal Dump Eradication
16 and Corrective Action Program Act, are repealed.

17 ~~(2) "Department" means the Arkansas Department of Environmental~~
18 ~~Quality;~~

19 ~~(3) "Director" means the Director of the Arkansas Department of~~
20 ~~Environmental Quality;~~

21
22 SECTION 2627. Arkansas Code § 8-6-503(5)(D), concerning the definition
23 of "illegal dumping of solid waste" under the Illegal Dump Eradication and
24 Corrective Action Program Act, is amended to read as follows:

25 (D) Upon any property for which a permit has not been
26 issued by the ~~department~~ Division of Environmental Quality;

27
28 SECTION 2628. Arkansas Code § 8-6-504 is amended to read as follows:

29 8-6-504. Illegal Dump Eradication and Corrective Action Program.
30 The Illegal Dump Eradication and Corrective Action Program shall be
31 administered by the ~~Arkansas Department~~ Division of Environmental Quality.

32
33 SECTION 2629. Arkansas Code § 8-6-510 is amended to read as follows:

34 8-6-510. Effectiveness of regulations and orders.

35 None of the provisions of this act are intended to supersede any of the
36 reuse, recycling, or fill provisions of state law of Regulation 22 of the

1 Solid Waste Management Division of the ~~Arkansas Department~~ Division of
2 Environmental Quality.

3
4 SECTION 2630. Arkansas Code § 8-6-602(c)(2)(D), concerning the duties
5 of the Arkansas Department of Environmental Quality under the Solid Waste
6 Management and Recycling Fund Act, is amended to read as follows:

7 (D) Other activities as approved by the ~~Arkansas~~
8 ~~Department~~ Division of Environmental Quality.

9
10 SECTION 2631. Arkansas Code § 8-6-602(d), concerning the duties of the
11 Arkansas Department of Environmental Quality under the Solid Waste Management
12 and Recycling Fund Act, is amended to read as follows:

13 (d) The ~~department~~ division and the Arkansas Pollution Control and
14 Ecology Commission shall promulgate and implement policies, rules,
15 regulations, and procedures for administering the terms of this subchapter.

16
17 SECTION 2632. Arkansas Code § 8-6-603(2), concerning the definition of
18 "department" under the Solid Waste Management and Recycling Fund Act, is
19 repealed.

20 ~~(2) "Department" means the Arkansas Department of Environmental~~
21 ~~Quality;~~

22
23 SECTION 2633. Arkansas Code § 8-6-603(9), concerning the definition of
24 "solid waste management plan" under the Solid Waste Management and Recycling
25 Fund Act, is amended to read as follows:

26 (9) "Solid waste management plan" means a plan which is
27 developed according to the provisions of the Arkansas Solid Waste Management
28 Act, § 8-6-201 et seq., and guidelines of the ~~department~~ Division of
29 Environmental Quality, and which is subject to approval by the ~~department~~
30 division;

31
32 SECTION 2634. Arkansas Code § 8-6-603(10)(D), concerning the
33 definition of "department" under the Solid Waste Management and Recycling
34 Fund Act, is amended to read as follows:

35 (D) Other activities as approved by the ~~department~~
36 division; and

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SECTION 2635. Arkansas Code § 8-6-604 is amended to read as follows:

8-6-604. Recycling plans and implementation.

(a) Unless otherwise excused by the Arkansas Pollution Control and Ecology Commission pursuant to the Arkansas Solid Waste Management Act, § 8-6-201 et seq., each governmental entity which is required to submit or has submitted a solid waste management plan pursuant to § 8-6-211 shall produce, by July 1, 1991, a solid waste management plan which proposes the establishment of recycling programs and facilities. The plan shall be subject to review and approval by the ~~Arkansas Department~~ Division of Environmental Quality.

(b) Pursuant to established procedures, the ~~department~~ division may initiate enforcement actions against governmental entities for failure to abide by the requirements of subsection (a) of this section. Enforcement sanctions may include, but are not limited to, denial, discontinuation, or reimbursement of grant funds awarded pursuant to any programs administered by the ~~department~~ division.

SECTION 2636. Arkansas Code § 8-6-605(b), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

(b) The fund shall be administered by the ~~Arkansas Department~~ Division of Environmental Quality, which shall authorize distributions and administrative expenditures from the fund under this subchapter for solid waste management and recycling programs.

SECTION 2637. The introductory language of Arkansas Code § 8-6-605(d), concerning the Solid Waste Management and Recycling Fund, is amended to read as follows:

(d) No more than twenty percent (20%) of the moneys received annually into the fund shall be used by the ~~department~~ division for:

SECTION 2638. Arkansas Code § 8-6-606(d)(1)(B), concerning landfill disposal fees, is amended to read as follows:

(B) This requirement may be satisfied by utilizing an alternative weighing system approved by the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

1
2 SECTION 2639. Arkansas Code § 8-6-606(d)(2), concerning landfill
3 disposal fees, is amended to read as follows:

4 (2) Class 1 and Class 3C landfills shall be required to weigh
5 all loads in excess of one (1) ton (2,000 lbs.), unless otherwise authorized
6 in writing by the ~~Arkansas Department~~ Division of Environmental Quality. This
7 provision authorizes Class 1 and Class 3C landfills to estimate weights for
8 residential and other similar loads weighing less than one (1) ton (2,000
9 lbs.).

10
11 SECTION 2640. Arkansas Code § 8-6-606(d)(4)(A) and (B), concerning
12 landfill disposal fees, are amended to read as follows:

13 (A) All quarterly reports required by this subchapter to
14 be submitted by Class 1 and Class 3C landfill permittees to the ~~Arkansas~~
15 ~~Department~~ Division of Environmental Quality shall accurately state the total
16 weight of solid waste received at the landfill, and the total weight of solid
17 waste received at the landfill shall be based upon the recorded weight scale
18 measurements; and

19 (B) The recorded weight scale measurements of solid waste
20 received at Class 1 and Class 3C landfills shall be used to calculate the
21 solid waste disposal fees payable to the ~~Arkansas Department~~ Division of
22 Environmental Quality by Class 1 and Class 3C landfill permittees.

23
24 SECTION 2641. Arkansas Code § 8-6-607(1) and (2), concerning the
25 collection of fees by the Arkansas Department of Environmental Quality, are
26 amended to read as follows:

27 (1) Each landfill permittee and each solid waste transporter
28 shall submit to the ~~Arkansas Department~~ Division of Environmental Quality on
29 or before January 15, April 15, July 15, and October 15 of each year a
30 quarterly report that accurately states the total weight or volume of solid
31 waste received at the landfill or transported out of state during the quarter
32 just completed;

33 (2) On or before January 15, April 15, July 15, and October 15
34 of each year, each landfill permittee and solid waste transporter shall pay
35 to the ~~department~~ division the full amount of disposal fees due for the
36 quarter just completed;

1
2 SECTION 2642. Arkansas Code § 8-6-607(4)(B), concerning the collection
3 of fees by the Arkansas Department of Environmental Quality, is amended to
4 read as follows:

5 (B) The Marketing Recyclables Program Fund shall be
6 administered by the ~~department~~ division and used by the panel for the
7 administration and performance of the panel's duties; and

8
9 SECTION 2643. Arkansas Code § 8-6-608 is amended to read as follows:
10 8-6-608. Penalties.

11 Failure of the permittee or solid waste transporter to pay the fees
12 assessed by the ~~Arkansas Department~~ Division of Environmental Quality
13 provides grounds for administrative or civil enforcement action. Sanctions
14 may include civil penalties as provided in the Arkansas Solid Waste
15 Management Act, § 8-6-201 et seq., or the revocation of the solid waste
16 disposal or solid waste transporter permit.

17
18 SECTION 2644. Arkansas Code § 8-6-615(a)(1)(A), concerning reporting
19 requirements and distribution of funds to regional solid waste management
20 programs, is amended to read as follows:

21 (a)(1)(A) Funds collected under this subchapter and deposited into the
22 State Treasury to the credit of the Solid Waste Management and Recycling
23 Fund, less up to twenty percent (20%) for administrative support for the
24 ~~Arkansas Department~~ Division of Environmental Quality, shall be allocated
25 annually to each of the approved regional solid waste management districts
26 utilizing a combination of the two (2) methods stated in subsections (b) and
27 (c) of this section.

28
29 SECTION 2645. Arkansas Code § 8-6-615(b)(1)(A) and (B), concerning
30 reporting requirements and distribution of funds to regional solid waste
31 management programs, are amended to read as follows:

32 (b)(1)(A) The ~~department~~ division shall determine the amount of funds
33 within each planning and development district organized under § 14-166-201 et
34 seq., and recognized by the Governor, based on the same distribution as
35 general revenue support is distributed to the planning and development
36 districts in the current fiscal year.

1 (B) The ~~department~~ division shall adjust the distribution
2 described in subdivision (b)(1)(A) of this section within the planning and
3 development districts to coincide with the boundaries of the regional solid
4 waste management districts by determining each county's share of the funds
5 available within each planning and development district.

6
7 SECTION 2646. Arkansas Code § 8-6-615(d)(1), concerning reporting
8 requirements and distribution of funds to regional solid waste management
9 programs, is amended to read as follows:

10 (d)(1) After August 1, 2017, and for each subsequent fiscal year, each
11 regional solid waste management board that receives funds under this section
12 shall provide a report by November 1 to the ~~department~~ division that explains
13 how the board spent the funding received under this section in the previous
14 fiscal year.

15
16 SECTION 2647. Arkansas Code § 8-6-615(d)(3), concerning reporting
17 requirements and distribution of funds to regional solid waste management
18 programs, is amended to read as follows:

19 (3) The report shall be in a spreadsheet form as prescribed by
20 the ~~department~~ division.

21
22 SECTION 2648. Arkansas Code § 8-6-701 is amended to read as follows:

23 8-6-701. Purpose – Legislative findings – Construction.

24 The purpose of this subchapter is to protect the public health and the
25 state's environmental quality by establishing regional solid waste management
26 and planning. The current system, relying upon solid waste management by
27 individual counties and municipalities, has fostered present conditions in
28 which certain areas of the state are facing capacity shortages of crisis
29 proportions, while others experience a surfeit of capacity with individual
30 disposal facilities which cannot muster the resources for environmentally
31 responsible operators. Given these disparate environmental and economic
32 concerns, the General Assembly concludes that regional solid waste management
33 and planning, under the oversight of the ~~Arkansas Department~~ Division of
34 Environmental Quality and the Arkansas Pollution Control and Ecology
35 Commission, is essential to address the imminent and future needs of the
36 state. The terms and obligations of this subchapter shall be liberally

1 construed so as to achieve remedial intent.

2
3 SECTION 2649. Arkansas Code § 8-6-702(3) and (4), concerning the
4 definitions of "department" and "director" under the laws governing regional
5 solid waste management districts and boards, are repealed.

6 ~~(3) "Department" means the Arkansas Department of Environmental~~
7 ~~Quality;~~

8 ~~(4) "Director" means the Director of the Arkansas Department of~~
9 ~~Environmental Quality;~~

10
11 SECTION 2650. Arkansas Code § 8-6-702(9), concerning the definition of
12 "materials in the recycling process" under the laws governing regional solid
13 waste management districts and boards, is amended as follows:

14 (9) "Materials in the recycling process" means ferrous and
15 nonferrous metals diverted or removed from the solid waste stream so that
16 they may be reused, as long as such materials are processed or handled using
17 reasonably available processing equipment and control technology as
18 determined by the ~~director~~ Director of the Division of Environmental Quality,
19 taking cost into account, and a substantial amount of the materials are
20 consistently utilized to manufacture a product which otherwise would have
21 been produced using virgin material;

22
23 SECTION 2651. Arkansas Code § 8-6-704(a)(5), concerning the powers and
24 duties of regional solid waste management boards, is amended to read as
25 follows:

26 (5) To petition the Director of the ~~Arkansas Department~~ Division
27 of Environmental Quality to issue, continue in effect, revoke, modify, or
28 deny any permit for any element of a solid waste management system located
29 within a district based on compliance or noncompliance with the solid waste
30 management plan of the district;

31
32 SECTION 2652. Arkansas Code § 8-6-704(a)(13)(B), concerning the powers
33 and duties of regional solid waste management boards, is amended to read as
34 follows:

35 (B) However, notice of all such authorizations shall be
36 submitted to the ~~Arkansas Department~~ Division of Environmental Quality within

1 thirty (30) days and shall be incorporated into the regional needs assessment
2 in its next regular update; and

3
4 SECTION 2653. Arkansas Code § 8-6-704(a)(14)(B), concerning the powers
5 and duties of regional solid waste management boards, is amended to read as
6 follows:

7 (B) However, notice of all such authorizations shall be
8 submitted to the ~~department~~ division within thirty (30) days and shall be
9 incorporated into the regional needs assessment in its next regular update.

10
11 SECTION 2654. Arkansas Code § 8-6-704(d)(4) and (5), concerning the
12 powers and duties of regional solid waste management boards, are amended to
13 read as follows:

14 (4) Copies of each audit report of a district shall be filed
15 with the ~~department~~ division and with Arkansas Legislative Audit. In
16 addition, one (1) copy of the audit report shall be kept for public
17 inspection with the books and records of the district.

18 (5) Failure to provide a full and complete audit report, as
19 required by this subchapter, shall prohibit future distribution of revenue
20 from funding programs that are administered by the ~~department~~ division unless
21 otherwise authorized by the director.

22
23 SECTION 2655. Arkansas Code § 8-6-705 is amended to read as follows:
24 8-6-705. Needs assessments.

25 (a) All needs assessments required by this subchapter are subject to
26 review and approval for completeness by the ~~Arkansas Department~~ Division of
27 Environmental Quality.

28 (b) Failure to provide complete assessments as required by this
29 subchapter may provide the ~~department~~ division with grounds to initiate
30 enforcement actions against the regional solid waste management boards or
31 their component governmental entities. Pursuant to established administrative
32 procedures, sanctions may be imposed, including, but not limited to, denial,
33 discontinuation, or reimbursement of any grant funding administered by the
34 ~~department~~ division to a regional solid waste management district or any of
35 its component governmental entities.

36 (c) The ~~department~~ division may award grants to the districts for the

1 development of the initial regional needs assessments, for the biennial
2 updates, and for any other update required by the law.

3
4 SECTION 2656. Arkansas Code § 8-6-706(a), concerning solid waste
5 landfill and transfer station permits, is amended to read as follows:

6 (a)(1) Before an application for a permit is submitted to the ~~Arkansas~~
7 ~~Department~~ Division of Environmental Quality, an applicant for a solid waste
8 landfill permit or a transfer station permit shall obtain a certificate of
9 need from the regional solid waste management board that has jurisdiction
10 over the proposed site, with the exception of permits for landfills when a
11 private industry bears the expense of operating and maintaining the landfill
12 solely for the disposal of waste generated by the industry or wastes of a
13 similar kind or character under the Arkansas Solid Waste Management Act, § 8-
14 6-201 et seq.

15 (2) The ~~department~~ division may deny any permit based upon the
16 denial of a certificate of need by any regional solid waste management board.

17
18 SECTION 2657. Arkansas Code § 8-6-706(c), concerning solid waste
19 landfill and transfer station permits, is amended to read as follows:

20 (c) Any interested party to a certificate of need determination by a
21 board may appeal the decision to the Director of the ~~Arkansas Department~~
22 Division of Environmental Quality pursuant to procedures adopted by the
23 Arkansas Pollution Control and Ecology Commission. The director may issue a
24 permit despite the denial of a certificate of need if the director finds upon
25 appeal that the decision of the board was not supported by substantial
26 evidence.

27
28 SECTION 2658. Arkansas Code § 8-6-712(a)(3)(B), concerning regulation
29 of solid waste disposal, is amended to read as follows:

30 (B) Provided, however, that notice of all such
31 authorizations shall be submitted to the ~~Arkansas Department~~ Division of
32 Environmental Quality within thirty (30) days and shall be incorporated into
33 the district needs assessment in its next regular update;

34
35 SECTION 2659. Arkansas Code § 8-6-712(c)(2), concerning regulation of
36 solid waste disposal, is amended to read as follows:

1 (2) Nothing in this section shall prohibit the collection or
2 disposal of solid waste by a municipality with an existing permitted landfill
3 with a twenty-five-year capacity as of January 1, 1991, when the city bears
4 the expense of operating and maintaining the landfill and the landfill
5 complies with United States Environmental Protection Agency and ~~department~~
6 division regulations.

7
8 SECTION 2660. Arkansas Code § 8-6-716(a)(1)(A)(ii), concerning the
9 submission of a regional needs assessment to the Arkansas Department of
10 Environmental Quality, is amended to read as follows:

11 (ii) Such regional needs assessment shall be
12 submitted for ~~Arkansas Department~~ Division of Environmental Quality review,
13 and the Director of the ~~Arkansas Department~~ Division of Environmental Quality
14 shall approve or disapprove it within ninety (90) days after submission.

15
16 SECTION 2661. Arkansas Code § 8-6-716(a)(1)(B)(ii), concerning the
17 submission of a regional needs assessment to the Arkansas Department of
18 Environmental Quality, is amended to read as follows:

19 (ii) The ~~department~~ division may, at its discretion,
20 stagger the due dates by random selection so that approximately one fourth
21 ($\frac{1}{4}$) of the districts will submit a regional needs assessment each year.

22
23 SECTION 2662. Arkansas Code § 8-6-716(a)(1)(C)(i), concerning the
24 submission of a regional needs assessment to the Arkansas Department of
25 Environmental Quality, is amended to read as follows:

26 (C)(i) The ~~department~~ division will notify in writing the
27 districts of the date on which their regional needs assessments are due.

28
29 SECTION 2663. Arkansas Code § 8-6-720(b), concerning the opportunity
30 to recycle and recyclable materials collection centers, is amended to read as
31 follows:

32 (b) The ~~Arkansas Department~~ Division of Environmental Quality shall
33 determine by regulation the adequacy of the facilities and the number and
34 type of recyclable materials for which the services in this section must be
35 provided.

36

1 SECTION 2664. Arkansas Code § 8-6-723(a)(2), concerning the
2 alternative formation of original districts, is amended to read as follows:

3 (2) The creation of the district shall be effective upon the
4 Director of the ~~Arkansas Department~~ Division of Environmental Quality's
5 receipt of written notice in the form of a joint resolution by the local
6 governments.

7
8 SECTION 2665. Arkansas Code § 8-6-723(b)(1), concerning the
9 alternative formation of original districts, is repealed.

10 ~~(b)(1) In lieu of forming a district under any other provision of this~~
11 ~~subchapter, a district may be created by a resolution of the governing body~~
12 ~~of any authority created under the Joint County and Municipal Solid Waste~~
13 ~~Disposal Act, § 14-233-101 et seq., which includes a county having a~~
14 ~~population of at least sixty thousand (60,000) persons and which has made~~
15 ~~application to the Arkansas Department of Environmental Quality for a solid~~
16 ~~waste disposal permit on or before January 1, 1991.~~

17
18 SECTION 2666. Arkansas Code § 8-6-901(2) and (3), concerning the
19 definitions of "department" and "director" under the laws governing licensing
20 of operators of solid waste management facilities, are repealed.

21 ~~(2) "Department" means the Arkansas Department of Environmental~~
22 ~~Quality;~~

23 ~~(3) "Director" means the Director of the Arkansas Department of~~
24 ~~Environmental Quality or the director's delegate or representative;~~

25
26 SECTION 2667. Arkansas Code § 8-6-901(4), concerning the definition of
27 "illegal dumps control officer" under the laws governing licensing of
28 operators of solid waste management facilities, is amended to read as
29 follows:

30 (4) "Illegal dumps control officer" means an individual employed
31 by an authorized solid waste management district within this state, a county
32 government within this state, or a pollution control inspector or other
33 representative of the ~~department~~ Division of Environmental Quality who is
34 empowered to ensure compliance with any state law prohibiting the illegal
35 dumping of solid wastes;

36

1 SECTION 2668. Arkansas Code § 8-6-901(5), concerning the definition of
2 "license" under the laws governing licensing of operators of solid waste
3 management facilities, is amended to read as follows:

4 (5) "License" means a certificate of competency issued by the
5 ~~director~~ Director of the Division of Environmental Quality to solid waste
6 management facility operators and illegal dumps control officers who have met
7 the requirements of the licensing program;

8
9 SECTION 2669. Arkansas Code § 8-6-901(6), concerning the definition of
10 "licensing committee" under the laws governing licensing of operators of
11 solid waste management facilities, is amended to read as follows:

12 (6) "Licensing committee" means the committee of solid waste
13 management facility managers, operators, or technicians established in this
14 subchapter to assist and advise the commission and the ~~department~~ division in
15 the examining and licensing of operators of solid waste management
16 facilities;

17
18 SECTION 2670. Arkansas Code § 8-6-903(a), concerning licenses required
19 to operate a solid waste management facility, is amended to read as follows:

20 (a) It shall be illegal for any county, municipality, governmental
21 subdivision, public or private corporation, or other person to operate a
22 solid waste management facility unless the competency of the operator is duly
23 licensed by the Director of the ~~Arkansas Department~~ Division of Environmental
24 Quality under the provisions of this subchapter.

25
26 SECTION 2671. Arkansas Code § 8-6-904(a)(1), concerning the creation
27 of a licensing committee to advise and assist the Arkansas Pollution Control
28 and Ecology Commission and the Arkansas Department of Environmental Quality,
29 is amended to read as follows:

30 (a)(1) There is created a licensing committee to advise and assist the
31 Arkansas Pollution Control and Ecology Commission and the ~~Arkansas Department~~
32 Division of Environmental Quality in the administration of the licensing
33 program.

34
35 SECTION 2672. Arkansas Code § 8-6-904(a)(2)(A), concerning the
36 creation of a licensing committee to advise and assist the Arkansas Pollution

1 Control and Ecology Commission and the Arkansas Department of Environmental
2 Quality, is amended to read as follows:

3 (A) Three (3) members, to be appointed by the commission,
4 shall be solid waste management facility operators licensed by the ~~department~~
5 division;

6
7 SECTION 2673. Arkansas Code § 8-6-904(a)(2)(H), concerning the
8 creation of a licensing committee to advise and assist the Arkansas Pollution
9 Control and Ecology Commission and the Arkansas Department of Environmental
10 Quality, is amended to read as follows:

11 (H) One (1) member, to be appointed by the Director of the
12 ~~Arkansas Department~~ Division of Environmental Quality, shall be a qualified
13 member of his or her staff who shall serve ex officio with no vote as
14 executive secretary of the committee.

15
16 SECTION 2674. Arkansas Code § 8-6-905(a), concerning the powers and
17 duties of the Arkansas Pollution Control and Ecology Commission, is amended
18 to read as follows:

19 (a) The Arkansas Pollution Control and Ecology Commission, with the
20 advice and assistance of the licensing committee, is given and charged with
21 the power and duty to adopt rules and regulations implementing and
22 effectuating such powers and duties of the ~~Arkansas Department~~ Division of
23 Environmental Quality and the committee under this subchapter as may be
24 necessary for the administration and enforcement of this subchapter.

25
26 SECTION 2675. The introductory language of Arkansas Code § 8-6-905(b),
27 concerning the powers and duties of the Arkansas Pollution Control and
28 Ecology Commission, is amended to read as follows:

29 (b) The ~~department~~ division is charged with the responsibility of
30 administering and enforcing this subchapter, with the advice and assistance
31 of the committee, and is given and charged with the following powers and
32 duties:

33
34 SECTION 2676. Arkansas Code § 8-6-905(b)(1)(B), concerning the powers
35 and duties of the Arkansas Pollution Control and Ecology Commission, is
36 amended to read as follows:

1 (B) This duty may be delegated by the ~~department~~ division
2 to the administrator of any approved course;

3
4 SECTION 2677. Arkansas Code § 8-6-905(c)(1) and (2), concerning the
5 powers and duties of the Arkansas Pollution Control and Ecology Commission,
6 are amended to read as follows:

7 (1) Conduct inquiries and establish findings necessary to advise
8 the commission and the ~~department~~ division on irregularities encountered in
9 the management of the licensing program;

10 (2) Conduct inquiries and establish facts necessary to advise
11 the commission and the ~~department~~ division on the actions of licensees; and

12
13 SECTION 2678. Arkansas Code § 8-6-906(b), concerning the
14 classification of a license, is amended to read as follows:

15 (b) The Director of the ~~Arkansas Department~~ Division of Environmental
16 Quality, with the advice and assistance of the licensing committee, shall
17 license persons according to their qualifications to successfully operate
18 solid waste management facilities within the classifications established and
19 effectuated by rules and regulations promulgated by the commission.

20
21 SECTION 2679. Arkansas Code § 8-6-907 is amended to read as follows:
22 8-6-907. Licensing.

23 All operators in responsible charge of public and private solid waste
24 management facilities shall be duly licensed and certified as competent by
25 the Director of the ~~Arkansas Department~~ Division of Environmental Quality
26 under the provisions of this subchapter and under such rules and regulations
27 as the Arkansas Pollution Control and Ecology Commission may adopt, with the
28 advice and assistance of the licensing committee, pursuant to the authority
29 of this subchapter.

30
31 SECTION 2680. Arkansas Code § 8-6-908(a)(1), concerning eligibility,
32 reciprocity, and licensing by the Director of the Arkansas Department of
33 Environmental Quality, is amended to read as follows:

34 (a)(1) The Director of the ~~Arkansas Department~~ Division of
35 Environmental Quality shall license and certify all applicants for licenses
36 under this subchapter who satisfy the requirements of this subchapter and the

1 rules and regulations issued pursuant thereto.

2
3 SECTION 2681. Arkansas Code § 8-6-908(b), concerning eligibility,
4 reciprocity, and licensing by the Director of the Arkansas Department of
5 Environmental Quality, is amended to read as follows:

6 (b) All operators of solid waste management facilities within the
7 state shall apply to the ~~Arkansas Department~~ Division of Environmental
8 Quality for a license.

9
10 SECTION 2682. Arkansas Code § 8-6-909(b), concerning fees for
11 licenses, examinations, and certifications, is amended to read as follows:

12 (b) All of the fees shall be deposited into the ~~Arkansas Department~~
13 Division of Environmental Quality Fee Trust Fund, as established in § 8-1-
14 105.

15
16 SECTION 2683. Arkansas Code § 8-6-1001(2) and (3), concerning the
17 definitions of "department" and "director" under the laws regarding the
18 Landfill Post-Closure Trust Fund, are repealed.

19 ~~(2) "Department" means the Arkansas Department of Environmental~~
20 ~~Quality;~~

21 ~~(3) "Director" means the Director of the Arkansas Department of~~
22 ~~Environmental Quality;~~

23
24 SECTION 2684. Arkansas Code § 8-6-1001(6), concerning the definition
25 of "post-closure corrective action" under the laws regarding the Landfill
26 Post-Closure Trust Fund, is amended to read as follows:

27 (6) "Post-closure corrective action" means any measures deemed
28 necessary by the ~~director~~ Director of the Division of Environmental Quality
29 to prevent or abate contamination of the environment from any landfill which
30 has been certified as properly closed by the ~~department~~ Division of
31 Environmental Quality;

32
33 SECTION 2685. Arkansas Code § 8-6-1002(a)(3), concerning the creation
34 of the Landfill Post-Closure Trust Fund, is amended to read as follows:

35 (3) Moneys received into the fund may also be used by the
36 ~~Arkansas Department~~ Division of Environmental Quality for administrative

1 purposes at a level not to exceed three hundred thousand dollars (\$300,000)
2 annually with an annual escalator not to exceed three percent (3%).

3
4 SECTION 2686. Arkansas Code § 8-6-1002(b), concerning the creation of
5 the Landfill Post-Closure Trust Fund, is amended to read as follows:

6 (b)(1) The fund shall be administered by the ~~department~~ division,
7 which shall authorize funding and administrative expenditures from the fund
8 according to the provisions of this subchapter.

9 (2)(A) The fund shall be administered by the ~~department~~ division
10 and shall be used by the ~~department~~ division for landfill post-closure
11 corrective action.

12 (B) The fund shall be used only if the Director of the
13 ~~Arkansas Department~~ Division of Environmental Quality determines that:

14 (i) A landfill which is no longer receiving waste,
15 regardless of when it ceased operating, is causing groundwater contamination
16 or is causing other contamination that is a hazard to public health or
17 endangers the environment; and

18 (ii) The owner or operator of the landfill site has
19 expended at least ten thousand dollars (\$10,000) toward corrective action,
20 unless the owner or operator cannot be located or the director determines an
21 emergency exists necessitating immediate corrective action.

22 (3) The fund shall be administered by the ~~department~~ division
23 and may be used by the ~~department~~ division to complete all activities
24 necessary for the closure of a permitted waste tire processing or disposal
25 site that is owned or operated by a regional solid waste management district
26 if the ~~department~~ division determines that the district lacks sufficient
27 funds to complete closure of the permitted waste tire processing or disposal
28 site.

29
30 SECTION 2687. Arkansas Code § 8-6-1002(e), concerning the creation of
31 the Landfill Post-Closure Trust Fund, is amended to read as follows:

32 (e)(1) An owner or operator of a permitted landfill shall establish
33 and at all times maintain financial assurance for the post-closure
34 maintenance of the landfill. At a minimum, each owner or operator shall
35 provide no less than twenty percent (20%) of estimated post-closure
36 maintenance costs through a financial mechanism readily negotiable by the

1 ~~department~~ division to cash funds, for example, a letter of credit, surety
2 bond, irrevocable trust, insurance, or other mechanism approved by the
3 ~~department~~ division, upon default by the owner and operator of post-closure
4 obligations.

5 (2) If, after proper closure of a landfill, the ~~department~~
6 division reasonably determines that the owner or operator cannot be located
7 or cannot otherwise satisfy, in whole or part, post-closure maintenance
8 obligations, the ~~department~~ division is authorized to expend the necessary
9 funds from the fund to satisfy the requirements of state and federal law and
10 to prevent or abate releases to the environment.

11 (3) If the ~~department~~ division is required to expend funds from
12 the fund due to the failure of an owner or operator to meet the requirements
13 of this subsection, the ~~department~~ division shall pursue collection and
14 recovery of the funds by issuing an administrative order notifying the owner
15 or operator by certified mail at the last known address of the owner or
16 operator of the action taken by the ~~department~~ division and the amount of
17 funds expended from the fund and that the administrative order may be
18 appealed in accordance with the ~~department's~~ division's regulations.
19

20 SECTION 2688. Arkansas Code § 8-6-1004(1) and (2), concerning the
21 collection of fees regarding the Landfill Post-Closure Trust Fund, are
22 amended to read as follows:

23 (1) Each landfill permittee and each solid waste transporter
24 shall submit to the ~~Arkansas Department~~ Division of Environmental Quality on
25 or before January 15, April 15, July 15, and October 15 of each year a
26 quarterly report which accurately states the total weight or volume of solid
27 waste received at the landfill or transported out of state during the
28 previous quarter;

29 (2) On or before January 15, April 15, July 15, and October 15
30 of each year, each landfill permittee and solid waste transporter shall pay
31 to the ~~department~~ division the full amount of such disposal fees due for the
32 previous quarter; and
33

34 SECTION 2689. Arkansas Code § 8-6-1005 is amended to read as follows:
35 8-6-1005. Penalties.

36 Failure of the permittee or solid waste transporter to pay the fees

1 assessed by the ~~Arkansas Department~~ Division of Environmental Quality shall
2 provide grounds for administrative or civil enforcement action. Sanctions may
3 include civil penalties as provided in the Arkansas Solid Waste Management
4 Act, § 8-6-201 et seq., or the revocation of the solid waste disposal or
5 solid waste transporter permit.

6
7 SECTION 2690. Arkansas Code § 8-6-1103(3), concerning the definition
8 of "director" under the laws regarding landfill service areas, is repealed.

9 ~~(3) "Director" means the Director of the Arkansas Department of~~
10 ~~Environmental Quality;~~

11
12 SECTION 2691. Arkansas Code § 8-6-1104 is amended to read as follows:

13 8-6-1104. Transportation of solid waste outside district.

14 In any instance in which a landfill has a useful life of less than one
15 and one-half ($1\frac{1}{2}$) years, the Director of the ~~Arkansas Department~~ Division of
16 Environmental Quality may authorize any city utilizing that landfill to
17 transport solid waste outside the boundaries of the regional solid waste
18 management district. Provided, however, in no instance shall that authority
19 be extended after a landfill with a useful life in excess of one and one-half
20 ($1\frac{1}{2}$) years becomes available within the district for accepting the solid
21 waste of the city.

22
23 SECTION 2692. Arkansas Code § 8-6-1105(b), concerning an exemption of
24 expansion outside district, is amended to read as follows:

25 (b) Landfill capacity shall be determined by the Director of the
26 ~~Arkansas Department~~ Division of Environmental Quality.

27
28 SECTION 2693. Arkansas Code § 8-6-1105(c)(3), concerning an exemption
29 of expansion outside district, is amended to read as follows:

30 (3) No new landfill shall be allowed to receive solid waste
31 outside the boundaries of the district in which it is located unless it is a
32 landfill where a private industry bears the expense of operating and
33 maintaining the landfill solely for the disposal of wastes generated by the
34 industry or of wastes of a similar kind or character and such industry has
35 commenced, prior to March 1, 1991, the process for obtaining a permit by
36 issuing notice to the local government having jurisdiction, as required under

1 the rules and regulations of the Arkansas Department of Environmental Quality
2 or the Division of Environmental Quality.

3
4 SECTION 2694. Arkansas Code § 8-6-1105(c)(4), concerning an exemption
5 of expansion outside district, is amended to read as follows:

6 (4)(A) No new applications for landfill permits seeking to
7 dispose of solid waste originating outside of a district or that propose to
8 dispose of solid waste originating from outside such district shall be
9 accepted or processed by the ~~Arkansas Pollution Control and Ecology~~
10 ~~Commission~~ Division of Environmental Quality or a regional solid waste
11 management board, unless such applications were pending before the ~~department~~
12 Arkansas Department of Environmental Quality or the Division of Environmental
13 Quality, on March 1, 1989.

14 (B) Provided, the prohibition contained in this subsection
15 shall not apply to new applications for landfill permits if the landfill is
16 one where a private industry bears the expense of operating and maintaining
17 the landfill solely for the disposal of wastes generated by the industry, or
18 of wastes of a similar kind or character, and such industry has commenced,
19 prior to March 1, 1991, the process for obtaining a permit by issuing notice
20 to the local government having jurisdiction, as required under the rules and
21 regulations of the ~~department~~ Arkansas Department of Environmental Quality or
22 the Division of Environmental Quality.

23
24 SECTION 2695. Arkansas Code § 8-6-1206(c)(1), concerning the adoption
25 of disposal criteria for incinerator ash, is amended to read as follows:

26 (c)(1) The monofill requirement created under this subchapter does not
27 apply if the owner or operator demonstrates to the ~~Arkansas Department~~
28 Division of Environmental Quality that the incinerator ash to be disposed of
29 in the Class 1 landfill is received from incinerators that only combust yard
30 waste or other natural vegetative debris, including vegetative storm debris,
31 tree trimmings, and land-clearing debris.

32
33 SECTION 2696. Arkansas Code § 8-6-1301(a), concerning legislative
34 findings and purpose regarding obtaining permits from the Arkansas Department
35 of Environmental Quality for medical waste incineration facilities, is
36 amended to read as follows:

1 (a) The General Assembly has found that there is an increased interest
2 in obtaining permits from the Arkansas Department of Environmental Quality or
3 the Division of Environmental Quality for the purpose of constructing and
4 operating commercial medical waste incineration facilities. The Clean Air Act
5 in 42 U.S.C. § 7429(a)(1)(C) has directed the United States Environmental
6 Protection Agency to promulgate regulations concerning these commercial
7 medical waste incineration facilities. The General Assembly has determined
8 that it is necessary to delay the issuance of permits to these commercial
9 medical waste incineration facilities until those regulations are promulgated
10 in order to ensure that any permits issued will be based on the latest
11 available information concerning technology and safety as set forth in the
12 federal regulations.

13
14 SECTION 2697. Arkansas Code § 8-6-1302(2) and (3), concerning the
15 definitions of "department" and "director" under the laws regarding
16 commercial medical waste incineration facilities, are repealed.

17 ~~(2) "Department" means the Arkansas Department of Environmental~~
18 ~~Quality;~~

19 ~~(3) "Director" means the Director of the Arkansas Department of~~
20 ~~Environmental Quality;~~

21
22 SECTION 2698. Arkansas Code § 8-6-1304(c)(2), concerning the
23 applicability of laws to medical waste incineration facilities, is amended to
24 read as follows:

25 (2) For the purposes of construing this subsection and the
26 application of this subchapter, initiation of operations has not occurred
27 until the ~~Arkansas Department~~ Division of Environmental Quality has approved
28 the installation of all permitted pollution control equipment and the
29 commercial medical waste incineration facility is receiving medical waste for
30 incineration.

31
32 SECTION 2699. Arkansas Code § 8-6-1305 is amended to read as follows:

33 8-6-1305. Permits – Procedure generally – Definition.

34 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
35 not accept any applications or issue any permits for the construction or
36 operation of any commercial medical waste incineration facilities until the

1 federal regulations promulgated pursuant to 42 U.S.C. § 7429(a)(1)(C) become
2 effective or the United States Environmental Protection Agency's dioxin
3 reassessment is finalized, whichever is later.

4 (b) Any person applying for a permit or a permit modification to
5 construct and operate a commercial medical waste incineration facility shall
6 complete the following criteria at least thirty (30) days prior to submitting
7 a permit application to the ~~department~~ division:

8 (1) Written notification by certified mail to each property
9 owner and resident of any property adjacent to the proposed site of the
10 intent to apply for a permit or permit modification; and

11 (2) Publication of a public notice in the largest newspaper
12 published in each county where the property which is the subject matter of
13 the proposed commercial medical waste incineration facility permit or permit
14 modification is located, and in at least one (1) newspaper of statewide
15 circulation, of the intent to apply for a permit or a permit modification to
16 construct and operate a commercial medical waste incineration facility.

17 (c) The ~~department~~ division shall provide written notice by certified
18 mail of the proposed permit or permit modification to the mayor of the city
19 and the county judge of the county where the property which is the subject
20 matter of the permit application is located.

21 (d) The ~~department~~ division shall conduct a public hearing in the
22 county in which the commercial medical waste incineration facility is to be
23 located prior to the issuance of a final permit.

24 (e)(1)(A) Notwithstanding the general provisions of other laws,
25 permits for the construction or operation of commercial medical waste
26 incineration facilities shall not be transferable upon a change in ownership
27 or control of a commercial medical waste incineration facility.

28 (B) Prior to any change in ownership or control of a
29 commercial medical waste incineration facility, the proposed new owner must
30 apply for a new permit and abide by the requirements of § 8-1-106.

31 (C) The ~~department~~ division shall process the application
32 as one for a new permit and apply the most current statutes, regulations,
33 technological standards, and operational controls as conditions precedent for
34 granting a permit or operational authority.

35 (2)(A) Any agreement or contract, written or oral, for a future
36 transfer of operational control or ownership of a permitted commercial

1 medical waste incineration facility or such an agreement or contract
2 contingent upon the ~~department's~~ division's approval shall be subject to
3 immediate disclosure to the ~~department~~ division pursuant to § 8-1-106.

4 (B) Upon such disclosure, the ~~department~~ division shall
5 cause the intent to transfer ownership or control to be publicly noticed and
6 produce the disclosure documentation required by § 8-1-106 for public
7 inspection.

8 (C) After a reasonable period for public review, the
9 ~~department~~ division shall issue a written determination as to whether the
10 intended transfer of ownership or control should be approved, subject to the
11 right of appeal provided by § 8-1-106(e).

12 (D) During the pendency of the ~~department's~~ division's and
13 the public's review of the disclosure materials required by this section, any
14 actions taken by the permittee or proposed transferee are at their own risk,
15 and shall not be construed by the ~~department~~ division or the Arkansas
16 Pollution Control and Ecology Commission as accruing equities in their favor.

17 (3) As used in this subsection:

18 (A) "Control" shall be presumed to reside with the owner,
19 as defined herein, unless circumstances indicate that a person or entity
20 other than an employee or agent of the owner is exercising ultimate decision-
21 making authority regarding the construction or operation of a commercial
22 medical waste incineration facility; and

23 (B) "Corporate ownership" shall be defined as a
24 controlling or majority interest in a commercial medical waste incineration
25 facility, either through outright ownership of stock or other indicia of
26 title, or any equitable right to such title as construed from the totality of
27 the circumstances.

28 (4) Any violation of this subsection shall constitute grounds
29 for permit revocation and imposition of the civil and criminal penalties
30 authorized by § 8-4-103.

31 (f)(1) If the original permit was issued more than one (1) year prior
32 to the initiation of incineration activities at a commercial medical waste
33 incineration facility, the ~~department~~ division may review the conditions of
34 the permit to determine whether good cause exists for modifying operating
35 parameters to assure the maximum feasible control efficiency of emissions.

36 (2) Any modifications proposed by the ~~department~~ division must

1 be supported by appropriate references to the scientific and engineering
2 literature or documented studies conducted by the ~~department~~ division.

3
4 SECTION 2700. The introductory language of Arkansas Code § 8-6-
5 1306(a), concerning the limitations of permits to construct or operate a
6 commercial medical waste incineration facility granted by the Arkansas
7 Department of Environmental Quality, is amended to read as follows:

8 (a) No permits may be issued by the ~~Arkansas Department~~ Division of
9 Environmental Quality for the construction or operation of a commercial
10 medical waste incineration facility in which any of the following factors are
11 present:

12
13 SECTION 2701. Arkansas Code § 8-6-1307 is amended to read as follows:

14 8-6-1307. Financial assurance guarantees.

15 (a)(1) Prior to initiating operations at a commercial medical waste
16 incineration facility, the owner or operator must demonstrate:

17 (A) Evidence of liability insurance in such amount as the
18 ~~Arkansas Department~~ Division of Environmental Quality may determine to be
19 necessary for the protection of public health and safety and protection of
20 the environment; and

21 (B) Evidence of financial responsibility in such form and
22 amount as the ~~department~~ division may determine to be necessary to ensure
23 that, upon abandonment, cessation, or interruption of the operation of the
24 commercial medical waste incineration facility, all appropriate measures can
25 be taken to prevent present and future damage to the public health and safety
26 and to the environment.

27 (2) In determining the adequacy of the evidence submitted, the
28 ~~department~~ division may consider credible evidence indicating that the
29 permittee is undercapitalized, insolvent, or otherwise financially incapable
30 of assuring environmentally sound operations at the permitted commercial
31 medical waste incineration facility.

32 (b) In determining the nature of financial assurance guarantees
33 required by subsection (a) of this section, the ~~department~~ division and the
34 permittee shall follow, to the extent applicable, the federal regulations
35 governing financial assurance of facilities governed by Subtitle D of the
36 Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6941 et seq.

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SECTION 2702. Arkansas Code § 8-6-1503 is amended to read as follows:

8-6-1503. ~~Department's~~ Division's permitting authority.

The ~~Arkansas Department~~ Division of Environmental Quality shall not process any application for a permit subject to § 8-6-1504 until the affected local and regional authorities have issued definitive findings regarding the criteria set out in § 8-6-1504.

SECTION 2703. Arkansas Code § 8-6-1504(a)(2), concerning a rebuttable presumption against certain sites for construction of a high impact solid waste management facility, is amended to read as follows:

(2) This presumption shall be honored by the ~~Arkansas Department~~ Division of Environmental Quality, the regional solid waste management board with jurisdiction over the site, and any other governmental entity with permitting or zoning authority concerning any facility.

SECTION 2704. Arkansas Code § 8-6-1601(c)(1), concerning the purpose of solid waste management facilities, is amended to read as follows:

(c)(1) After an application to operate a solid waste management facility has been reviewed and approved but before a permit is issued, the applicant shall post with the ~~Arkansas Department~~ Division of Environmental Quality, on forms prescribed by the ~~department~~ division in accordance with the regulations issued under this subchapter, a corporate surety bond for performance or an acceptable alternative, such as a certificate of deposit or letter of credit payable to the ~~department~~ division and conditioned upon faithful performance of all requirements of this subchapter, the regulations issued pursuant to this subchapter, and the permit, including, but not limited to, proper closure of the solid waste management facility.

SECTION 2705. Arkansas Code § 8-6-1602(5), concerning the definition of "department" under the laws regarding solid waste management facilities, is repealed.

~~(5) "Department" means the Arkansas Department of Environmental Quality;~~

SECTION 2706. Arkansas Code § 8-6-1603(d)(4)(A), concerning procedures

1 of solid waste management facilities, is amended to read as follows:

2 (4)(A) A municipality or county that owns or operates a solid
3 waste management facility receiving any non-RCRA, Subtitle D waste may, in
4 lieu of a performance bond, execute a contract of obligation with the
5 Director of the ~~Arkansas Department~~ Division of Environmental Quality.

6
7 SECTION 2707. Arkansas Code § 8-6-1604(c) and (d), concerning the
8 Solid Waste Performance Bond Fund, are amended to read as follows:

9 (c) The fund shall be administered by the ~~Arkansas Department~~ Division
10 of Environmental Quality and will be used to accomplish remedial action,
11 including closure of lands covered by performance bonds forfeited under this
12 subchapter.

13 (d) Moneys received annually into the fund shall be used by the
14 ~~department~~ division for the administration of remedial actions performed as a
15 result of this subchapter.

16
17 SECTION 2708. Arkansas Code § 8-6-1703(e), concerning restrictions on
18 the open burning of yard waste, is amended to read as follows:

19 (e) Nothing in this subchapter shall be construed as impairing the
20 authority of the ~~Arkansas Department~~ Division of Environmental Quality to
21 abate reasonably likely exceedances of National Ambient Air Quality
22 Standards.

23
24 SECTION 2709. Arkansas Code § 8-6-1801 is amended to read as follows:

25 8-6-1801. Management plan – Substitution.

26 If the ~~Arkansas Department~~ Division of Environmental Quality requires a
27 person to obtain an animal waste management plan, including a permit
28 application, prepared by a professional engineer as defined in § 17-30-101,
29 the person may substitute a plan prepared under the supervision of a
30 professional engineer employed by one (1) of the following agencies:

- 31 (1) A conservation district;
32 (2) The Arkansas Natural Resources Commission;
33 (3) The United States Natural Resources Conservation Service; or
34 (4) The University of Arkansas Cooperative Extension Service.

35

36 SECTION 2710. Arkansas Code § 8-6-1902(1), concerning the

1 responsibility for the development of the Statewide Solid Waste Management
2 Plan, is amended to read as follows:

3 (1) The ~~Arkansas Department~~ Division of Environmental Quality
4 has been charged by the General Assembly with the responsibility of
5 developing the Statewide Solid Waste Management Plan which, when feasible,
6 gives emphasis to regional planning;

7
8 SECTION 2711. Arkansas Code § 8-6-1903(3), concerning the definition
9 of "department" under the laws regarding the Statewide Solid Waste Management
10 Plan, is repealed.

11 ~~(3) "Department" means the Arkansas Department of Environmental~~
12 ~~Quality.~~

13
14 SECTION 2712. The introductory language of Arkansas Code § 8-6-
15 1904(a), concerning the development and implementation of the Statewide Solid
16 Waste Management Plan by the Arkansas Department of Environmental Quality, is
17 amended to read as follows:

18 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
19 develop the Statewide Solid Waste Management Plan to establish minimum
20 requirements for all regional solid waste management plans, including
21 requirements for:

22
23 SECTION 2713. Arkansas Code § 8-6-1904(c)(2), concerning the
24 development and implementation of the Statewide Solid Waste Management Plan
25 by the Arkansas Department of Environmental Quality, is amended to read as
26 follows:

27 (2) Denial, discontinuation, or reimbursement of any funding
28 administered by the ~~department~~ division to the board.

29
30 SECTION 2714. Arkansas Code § 8-7-202(4), concerning the purpose of
31 the Arkansas Hazardous Waste Management Act of 1979, is amended to read as
32 follows:

33 (4) Qualify the ~~Arkansas Department~~ Division of Environmental
34 Quality to adopt, administer, and enforce a hazardous waste program pursuant
35 to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et
36 seq.; and

1
2 SECTION 2715. Arkansas Code § 8-7-203(2) and (3), concerning the
3 definitions of "department" and "director" under the Arkansas Hazardous Waste
4 Management Act of 1979, are repealed.

5 ~~(2) "Department" means the Arkansas Department of Environmental~~
6 ~~Quality or its successor;~~

7 ~~(3) "Director" means the Director of the Arkansas Department of~~
8 ~~Environmental Quality or his or her successor;~~

9
10 SECTION 2716. The introductory language of Arkansas Code § 8-7-
11 203(7)(A), concerning the definition of "hazardous waste" under the Arkansas
12 Hazardous Waste Management Act of 1979, is amended to read as follows:

13 (7)(A) "Hazardous waste" means any waste or combination of
14 wastes of a solid, liquid, contained gaseous, or semisolid form which,
15 because of its quantity, concentration, or physical, chemical, or infectious
16 characteristics, may in the judgment of the ~~department~~ Division of
17 Environmental Quality;

18
19 SECTION 2717. Arkansas Code § 8-7-204(a)(1)(A), concerning criminal,
20 civil, and administrative penalties under the Arkansas Hazardous Waste
21 Management Act of 1979, is amended to read as follows:

22 (1)(A) Any person who violates any provision of this subchapter,
23 who commits any unlawful act under this subchapter, or who violates any rule,
24 regulation, or order of the Arkansas Pollution Control and Ecology Commission
25 or the ~~Arkansas Department~~ Division of Environmental Quality shall be guilty
26 of a misdemeanor.

27
28 SECTION 2718. Arkansas Code § 8-7-204(a)(2)(A)(i), concerning
29 criminal, civil, and administrative penalties under the Arkansas Hazardous
30 Waste Management Act of 1979, is amended to read as follows:

31 (i) Violate any provision of this subchapter, commit
32 any unlawful act under this subchapter, or violate any rule, regulation, or
33 order of the commission or the ~~department~~ division, and leave the state or
34 remove his or her person from the jurisdiction of this state; or

35
36 SECTION 2719. The introductory language of Arkansas Code § 8-7-204(b),

1 concerning criminal, civil, and administrative penalties under the Arkansas
2 Hazardous Waste Management Act of 1979, is amended to read as follows:

3 (b) Civil Penalties. The ~~department~~ division may institute a civil
4 action in any court of competent jurisdiction to accomplish any of the
5 following:

6
7 SECTION 2720. Arkansas Code § 8-7-204(b)(3), concerning criminal,
8 civil, and administrative penalties under the Arkansas Hazardous Waste
9 Management Act of 1979, is amended to read as follows:

10 (3) Recover all costs, expenses, and damages to the ~~department~~
11 division and any other agency or subdivision of the state in enforcing or
12 effectuating the provisions of this subchapter, including, but not limited
13 to, natural resource damages;

14
15 SECTION 2721. Arkansas Code § 8-7-204(c), concerning criminal, civil,
16 and administrative penalties under the Arkansas Hazardous Waste Management
17 Act of 1979, is amended to read as follows:

18 (c) Any person who violates any provision of this subchapter and
19 regulations, rules, permits, or plans issued pursuant to this subchapter may
20 be assessed an administrative civil penalty not to exceed twenty-five
21 thousand dollars (\$25,000) per violation. Each day of a continuing violation
22 may be deemed a separate violation for purposes of civil penalty assessment.
23 No civil penalty may be assessed until the person charged with the violation
24 has been given the opportunity for a hearing in accordance with regulations
25 adopted by the commission. All hearings and appeals arising under this
26 subchapter shall be conducted in accordance with the procedures prescribed by
27 §§ 8-4-205, 8-4-212, and 8-4-218 – 8-4-229. The procedures of this subsection
28 may also be used to recover all costs, expenses, and damages to the
29 ~~department~~ division and any other agency or subdivision of the state in
30 enforcing or effectuating the provisions of this subchapter, including, but
31 not limited to, natural resource damages.

32
33 SECTION 2722. Arkansas Code § 8-7-204(e)(1), concerning criminal,
34 civil, and administrative penalties under the Arkansas Hazardous Waste
35 Management Act of 1979, is amended to read as follows:

36 (e)(1) All moneys collected as reimbursement for expenses, costs, and

1 damages to the ~~department~~ division shall be deposited into the operating fund
2 of the ~~department~~ division.

3
4 SECTION 2723. Arkansas Code § 8-7-204(e)(3), concerning criminal,
5 civil, and administrative penalties under the Arkansas Hazardous Waste
6 Management Act of 1979, is amended to read as follows:

7 (3)(A) In his or her discretion, the Director of the ~~Arkansas~~
8 ~~Department~~ Division of Environmental Quality may authorize in-kind services
9 as partial mitigation of cash penalties for use in projects or programs
10 designed to advance environmental interests.

11 (B) The violator may provide in-kind services or cash
12 contributions as directed by the ~~department~~ division by utilizing the
13 violator's own expertise, by hiring and compensating subcontractors to
14 perform the in-kind services, by arranging and providing financing for the
15 in-kind services, or by other financial arrangements initiated by the
16 ~~department~~ division in which the violator and the ~~department~~ division retain
17 no monetary benefit, however remote.

18 (C) The in-kind services shall not duplicate or augment
19 services already provided by the ~~department~~ division through appropriations
20 of the General Assembly.

21
22 SECTION 2724. Arkansas Code § 8-7-205(3), concerning unlawful actions
23 under the Arkansas Hazardous Waste Management Act of 1979, is amended to read
24 as follows:

25 (3) Dispose of hazardous waste at any disposal site or facility
26 other than one for which a permit has been issued by the ~~Arkansas Department~~
27 Division of Environmental Quality pursuant to this subchapter; or

28
29 SECTION 2725. Arkansas Code § 8-7-208 is amended to read as follows:

30 8-7-208. Official agency for program and agreements.

31 (a) The ~~Arkansas Department~~ Division of Environmental Quality is
32 designated as the official agency for the state for all purposes of the
33 Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., and
34 for the purpose of such other state or federal legislation as may be enacted
35 to assist in the management of hazardous wastes.

36 (b)(1) The General Assembly encourages cooperative activities by the

1 ~~department~~ division with other states for the improved management of
2 hazardous wastes and, so far as is practicable, uniform state laws relating
3 to the management of hazardous wastes and compacts between this and other
4 states for the improved management of hazardous wastes.

5 (2) The ~~department~~ division may enter into agreements with the
6 responsible authorities of the United States or of other states, subject to
7 approval by the Governor, relative to policies, methods, means, and
8 procedures to be employed in the management of hazardous wastes not
9 inconsistent with the provisions of this subchapter and may carry out such
10 agreements.

11
12 SECTION 2726. The introductory language of Arkansas Code § 8-7-209(a),
13 concerning the powers and duties of the Arkansas Department of Environmental
14 Quality and the Arkansas Pollution Control and Ecology Commission for
15 hazardous waste management, is amended to read as follows:

16 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
17 have the following powers and duties:

18
19 SECTION 2727. Arkansas Code § 8-7-209(a)(6), concerning the powers and
20 duties of the Arkansas Department of Environmental Quality and the Arkansas
21 Pollution Control and Ecology Commission for hazardous waste management, is
22 amended to read as follows:

23 (6) To make such investigations and inspections and to hold such
24 hearings, after notice, as the ~~Arkansas Department~~ Division of Environmental
25 Quality may deem necessary or advisable for the discharge of the ~~Arkansas~~
26 ~~Department~~ Division of Environmental Quality's duties under this subchapter
27 and to ensure compliance with this subchapter and any orders, rules, and
28 regulations issued pursuant thereto;

29
30 SECTION 2728. Arkansas Code § 8-7-209(a)(8)(A), concerning the powers
31 and duties of the Arkansas Department of Environmental Quality and the
32 Arkansas Pollution Control and Ecology Commission for hazardous waste
33 management, is amended to read as follows:

34 (8)(A) To institute proceedings in the name of the ~~Arkansas~~
35 ~~Department~~ Division of Environmental Quality in any court of competent
36 jurisdiction to compel compliance with and to restrain any violation of the

1 provisions of this subchapter or any rules, regulations, and orders issued
2 pursuant thereto or any permit issued thereunder, and require the taking of
3 such remedial measures as may be necessary or appropriate to implement or
4 effectuate the provisions and purposes of this subchapter.

5
6 SECTION 2729. Arkansas Code § 8-7-209(a)(12), concerning the powers
7 and duties of the Arkansas Department of Environmental Quality and the
8 Arkansas Pollution Control and Ecology Commission for hazardous waste
9 management, is amended to read as follows:

10 (12) In addition to the powers enumerated above, the ~~Arkansas~~
11 ~~Department~~ Division of Environmental Quality shall have and may use in the
12 administration and enforcement of this subchapter all of the powers which the
13 ~~Arkansas Department~~ Division of Environmental Quality has under other laws
14 administered by the ~~Arkansas Department~~ Division of Environmental Quality,
15 including the Arkansas Water and Air Pollution Control Act, § 8-4-101 et
16 seq., and the Arkansas Solid Waste Management Act, § 8-6-201 et seq.

17
18 SECTION 2730. The introductory language of Arkansas Code § 8-7-
19 209(b)(1), concerning the powers and duties of the Arkansas Department of
20 Environmental Quality and the Arkansas Pollution Control and Ecology
21 Commission for hazardous waste management, is amended to read as follows:

22 (1) To adopt, after notice and public hearing, and to
23 promulgate, modify, repeal, and enforce rules and regulations regarding
24 hazardous waste management as may be necessary or appropriate to implement or
25 effectuate the purposes and intent of this subchapter and the powers and
26 duties of the ~~Arkansas Department~~ Division of Environmental Quality under
27 this subchapter, including, but not limited to, rules and regulations for:

28
29 SECTION 2731. Arkansas Code § 8-7-209(b)(4) and (5), concerning the
30 powers and duties of the Arkansas Department of Environmental Quality and the
31 Arkansas Pollution Control and Ecology Commission for hazardous waste
32 management, are amended to read as follows:

33 (4) Promulgation of rules and regulations governing
34 administrative procedures for challenging or contesting ~~Arkansas Department~~
35 Division of Environmental Quality actions;

36 (5) In the case of permitting or grants decisions, providing the

1 right to appeal a permitting or grants decision rendered by the Director of
2 the ~~Arkansas Department~~ Division of Environmental Quality or his or her
3 delegatee;

4
5 SECTION 2732. Arkansas Code § 8-7-209(b)(8), concerning the powers and
6 duties of the Arkansas Department of Environmental Quality and the Arkansas
7 Pollution Control and Ecology Commission for hazardous waste management, is
8 amended to read as follows:

9 (8) Make recommendations to the director regarding overall
10 policy and administration of the ~~Arkansas Department~~ Division of
11 Environmental Quality, provided, however, that the director shall always
12 remain within the plenary authority of the Governor; and

13
14 SECTION 2733. Arkansas Code § 8-7-210 is amended to read as follows:

15 8-7-210. Existing rules, regulations, etc.

16 (a) All existing rules and regulations of the ~~Arkansas Department~~
17 Division of Environmental Quality not inconsistent with the provisions of
18 this subchapter relating to subjects embraced within this subchapter shall
19 remain in full force and effect until expressly repealed, amended, or
20 superseded by the Arkansas Pollution Control and Ecology Commission, insofar
21 as the rules and regulations do not conflict with the provisions of this
22 subchapter.

23 (b) All orders entered, permits granted, and pending legal proceedings
24 instituted by the ~~department~~ division relating to subjects embraced within
25 this subchapter shall remain unimpaired and in full force and effect until
26 superseded by actions taken by the ~~department~~ division or commission under
27 this subchapter.

28 (c) No existing civil or criminal remedies, public or private, for any
29 wrongful action shall be excluded or impaired by this subchapter.

30 (d) The provisions of this subchapter and the rules and regulations
31 promulgated pursuant to this subchapter shall govern if they conflict with
32 the provisions of the Arkansas Water and Air Pollution Control Act, § 8-4-101
33 et seq., or the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or
34 any action taken by the ~~department~~ division or commission under those laws.

35
36 SECTION 2734. Arkansas Code § 8-7-212 is amended to read as follows:

1 8-7-212. Considerations in administration.

2 (a) In administering the provisions of this subchapter, the ~~Arkansas~~
3 ~~Department~~ Division of Environmental Quality may adopt and give appropriate
4 effect to variations within this state in climate, geology, population
5 density, and such other factors as may be relevant to the management of
6 hazardous waste, the establishment of standards and permit conditions, and to
7 the siting of permitted facilities.

8 (b) To the extent practicable, the rules, regulations, and procedures
9 adopted by the ~~department~~ division pursuant to this subchapter shall be
10 consistent with other environmentally related rules, regulations, and
11 procedures of the ~~department~~ division. In administering the provisions of
12 this subchapter and of all other laws under the administration of the
13 ~~department~~ division, the ~~department~~ division and the Arkansas Pollution
14 Control and Ecology Commission shall coordinate and expedite the issuance of
15 permits required by an applicant under one (1) or more laws, to the end of
16 eliminating, insofar as practicable, any duplication of unnecessary time and
17 expense to the applicant and the ~~department~~ division.

18 (c) The ~~department~~ division shall integrate all provisions of this
19 subchapter with the appropriate provisions of all other laws which grant
20 regulatory authority to the ~~department~~ division for purposes of
21 administration and enforcement and shall avoid duplication to the maximum
22 extent practicable.

23
24 SECTION 2735. Arkansas Code § 8-7-213 is amended to read as follows:

25 8-7-213. Procedure generally.

26 The procedure of the ~~Arkansas Department~~ Division of Environmental
27 Quality and the Arkansas Pollution Control and Ecology Commission for
28 issuance of rules and regulations, conduct of hearings, notice, power of
29 subpoena, review of action on permits, right of appeal, presumptions,
30 finality of actions, and related matters shall be as provided in § 8-4-101 et
31 seq. and § 8-4-201 et seq., including, but not limited to, §§ 8-4-205, 8-4-
32 210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229 if they are not in conflict
33 with the provisions set forth in this subchapter.

34
35 SECTION 2736. Arkansas Code § 8-7-214(a)(1), concerning an emergency
36 order for an imminent hazard by the Director of the Arkansas Department of

1 Environmental Quality, is amended to read as follows:

2 (a)(1) Notwithstanding any other provisions of this subchapter, the
3 Director of the ~~Arkansas Department~~ Division of Environmental Quality, upon
4 finding that the storage, transportation, treatment, or disposal of any waste
5 may present an imminent and substantial hazard to the health of persons or to
6 the environment and that an emergency exists requiring immediate action to
7 protect the public health and welfare, he or she may, without notice or
8 hearing, issue an order reciting the existence of such an imminent hazard and
9 emergency and requiring that such action be taken as he or she determines to
10 be necessary to protect the health of such persons or the environment and to
11 meet the emergency.

12

13 SECTION 2737. Arkansas Code § 8-7-215(a), concerning requirements for
14 a permit regarding a hazardous waste treatment or disposal facility or site,
15 is amended to read as follows:

16 (a) No person shall construct, substantially alter, or operate any
17 hazardous waste treatment or disposal facility or site, nor shall any person
18 store, treat, or dispose of any hazardous waste without first obtaining a
19 permit from the ~~Arkansas Department~~ Division of Environmental Quality for the
20 facility, site, or activity.

21

22 SECTION 2738. Arkansas Code § 8-7-216(a) and (b), concerning permits,
23 issuance, and interim operations regarding the Arkansas Department of
24 Environmental Quality, are amended to read as follows:

25 (a) A permit shall be issued under such terms and conditions as the
26 ~~Arkansas Department~~ Division of Environmental Quality may prescribe under
27 this subchapter and under the terms and conditions the Arkansas Department of
28 Transportation may prescribe for the transportation of hazardous waste.

29 ~~(b) A facility required to have a permit under this subchapter or~~
30 ~~which is operating under the terms of a permit issued under the Arkansas~~
31 ~~Water and Air Pollution Control Act, § 8-4-101 et seq., or the Arkansas Solid~~
32 ~~Waste Management Act, § 8-6-201 et seq., as of March 14, 1979, may continue~~
33 ~~in operation until such time as a permit is issued under this subchapter by~~
34 ~~the Arkansas Department of Environmental Quality, provided the owner or~~
35 ~~operator of such facility has made application on forms provided by the~~
36 ~~Arkansas Department of Environmental Quality for such permit by September 14,~~

1 ~~1979.~~

2

3 SECTION 2739. Arkansas Code § 8-7-216(c)(1), concerning permits,
4 issuance, and interim operations regarding the Arkansas Department of
5 Environmental Quality, is amended to read as follows:

6 (c)(1) A facility required to have a permit under this subchapter due
7 to statutory or regulatory changes which occur after March 14, 1979, may
8 continue in operation until such time as a permit is issued under this
9 subchapter, provided that the owner or operator notifies the ~~Arkansas~~
10 ~~Department~~ Division of Environmental Quality of newly regulated activities at
11 the facility within ninety (90) days of the effective date of each statutory
12 or regulatory change and makes initial permit application within one hundred
13 eighty (180) days of the effective date of such changes on forms provided by
14 the ~~Arkansas Department~~ Division of Environmental Quality.

15

16 SECTION 2740. Arkansas Code § 8-7-217 is amended to read as follows:

17 8-7-217. Permits – Notice of hearing.

18 No permit shall be issued by the ~~Arkansas Department~~ Division of
19 Environmental Quality or the Arkansas Pollution Control and Ecology
20 Commission for any commercial hazardous waste treatment, storage, or disposal
21 facility unless thirty (30) days' advance notice of a hearing has been placed
22 in the largest newspaper published in the county in which a commercial
23 hazardous waste treatment, storage, or disposal facility or facilities are
24 located or proposed to be located, as well as published in the largest
25 newspaper published in the adjoining counties. If there is no newspaper
26 published in any of the counties so affected, the notice shall be published
27 in the newspaper having the largest circulation in the county.

28

29 SECTION 2741. Arkansas Code § 8-7-218 is amended to read as follows:

30 8-7-218. Permits – Compliance with subchapter, state and federal
31 standards, regulations, etc.

32 (a) No permits shall be issued by the ~~Arkansas Department~~ Division of
33 Environmental Quality for any facility unless the ~~department~~ division, after
34 opportunity for public comment, has determined that the facility has been
35 designed and will be operated in such manner that any emission from the
36 facility will comply with the provisions of this subchapter and all

1 applicable state and federal standards and regulations concerning air and
2 water quality and that the transfer, handling, and storage of materials
3 within the facility will not cause conditions which would violate state and
4 federal standards concerning worker safety or create unreasonable hazards to
5 the environment or to the health and welfare of the people living and working
6 in or near the facility.

7 (b)(1) No permit shall be issued by the ~~department~~ division for any
8 commercial disposal or storage facility off the site where the hazardous
9 waste is generated until the ~~department~~ division has adopted rules,
10 regulations, standards, and procedures pursuant to § 8-7-209.

11 (2) The rules, regulations, standards, procedures, or other
12 requirements adopted and imposed by the ~~department~~ division shall not be less
13 stringent than the regulations promulgated or revised by the United States
14 Environmental Protection Agency pursuant to the Resource Conservation and
15 Recovery Act of 1976, 42 U.S.C. § 6901 et seq.

16 (c) No permit shall be issued for hazardous waste treatment, storage,
17 or disposal facilities except under the terms of regulations of the
18 ~~department~~ division which conform to the provisions of § 3005 of the Resource
19 Conservation and Recovery Act of 1976, 42 U.S.C. § 6925.

20
21 SECTION 2742. Arkansas Code § 8-7-219 is amended to read as follows:

22 8-7-219. Permits – Commercial facilities – Terms and conditions.

23 No permit shall be issued for any commercial hazardous waste treatment,
24 storage, or disposal facility unless that facility meets such terms and
25 conditions as the ~~Arkansas Department~~ Division of Environmental Quality may
26 direct, including, but not limited to:

27 (1) Evidence of liability insurance in such amount as the
28 ~~department~~ division may determine to be necessary for the protection of the
29 public health and safety and the protection of the environment;

30 (2) Evidence of financial responsibility in such form and amount
31 as the ~~department~~ division may determine to be necessary to ensure that, upon
32 abandonment, cessation, or interruption of the operation of the facility, all
33 appropriate measures are taken to prevent present and future damage to the
34 public health and safety and to the environment;

35 (3)(A) Evidence that the personnel employed at the hazardous
36 waste treatment or disposal facility meet such qualifications as to education

1 and training as the ~~department~~ division may determine to be necessary to
2 assure the safe and adequate operation of the facility.

3 (B) Persons charged with the direct supervision of the
4 operation of any facility must be certified by the ~~department~~ division as
5 having such qualifications after a review of the types, properties, and
6 volume of hazardous waste to be treated or disposed of at the facility.

7 (C) The ~~department~~ division may require the
8 recertification of supervisory personnel when there is any significant change
9 in the types or properties of hazardous waste being treated or disposed of in
10 any facility;

11 (4) Evidence of an appropriate preventive maintenance program,
12 spill prevention plan, safety procedures, and contingency plans which have
13 been developed in consultation with the fire department having jurisdiction
14 and by the mayor or city manager of the municipality or by the county judge
15 of the county in which the facility is to be located;

16 (5) Evidence that the location of the facility is consistent
17 with the siting criteria established by the ~~department~~ division as provided
18 in § 8-7-209(a)(3). The provisions of this subdivision (5) shall not apply to
19 a treatment facility which began operation prior to the date of enactment of
20 this act and which has an existing operating permit from the ~~department~~
21 Arkansas Department of Environmental Quality, now the Division of
22 Environmental Quality, or to any subsequent modifications to such treatment
23 facility, provided that the owner of the treatment facility can demonstrate
24 that the modifications do not materially increase the degree of hazards
25 associated with the treatment facility; and

26 (6) Evidence of such forms of assurance, including full fee
27 ownership of lands, and all mineral rights thereto, to ensure that the owner
28 of any hazardous waste landfill has the legal authority to commit the
29 hazardous waste landfill to perpetual security.

30
31 SECTION 2743. Arkansas Code § 8-7-220(b), concerning the Arkansas
32 Department of Environmental Quality's ability to grant permits, the permit's
33 duration, and the renewal of permits, is amended to read as follows:

34 (b) Permits shall be subject to renewal by the ~~Arkansas Department~~
35 Division of Environmental Quality upon a showing that the facility has been
36 operated in accordance with the terms of the permit, the rules and

1 regulations applicable to such facility, and in compliance with all other
2 provisions of this subchapter.

3
4 SECTION 2744. Arkansas Code § 8-7-221 is amended to read as follows:

5 8-7-221. Permits – Revocation.

6 Any permit issued under §§ 8-7-215 – 8-7-220 shall be subject to
7 revocation for failure of the permittee to comply with the terms and
8 conditions of the permit, the rules and regulations of the ~~Arkansas~~
9 ~~Department~~ Division of Environmental Quality applicable thereto, or the
10 provisions of this subchapter.

11
12 SECTION 2745. Arkansas Code § 8-7-222 is amended to read as follows:

13 8-7-222. Permits – Hearing upon denial, revocation, or modification.

14 Any person who is denied a permit by the Director of the ~~Arkansas~~
15 ~~Department~~ Division of Environmental Quality or who has such permit revoked
16 or modified shall be afforded an opportunity for a hearing by the Arkansas
17 Pollution Control and Ecology Commission in connection therewith upon written
18 application made within thirty (30) days after service of notice of the
19 denial, revocation, or modification.

20
21 SECTION 2746. Arkansas Code § 8-7-223 is amended to read as follows:

22 8-7-223. Location of landfill.

23 No hazardous waste landfill disposal facility off the site of
24 generation shall be located within one-half ($\frac{1}{2}$) mile of any occupied dwelling
25 unless the applicant shall affirmatively demonstrate and the ~~Arkansas~~
26 ~~Department~~ Division of Environmental Quality shall specifically find that,
27 because of the nature and amounts of the materials to be placed in such
28 hazardous waste landfill disposal facility, a lesser distance will provide
29 adequate margins of safety even under abnormal operating conditions.

30
31 SECTION 2746. Arkansas Code § 8-7-224(a), concerning the rules for
32 transporting hazardous waste, is amended to read as follows:

33 (a)(1) Following notice and public hearing, the Arkansas Department of
34 Transportation, in consultation with the ~~Arkansas Department~~ Division of
35 Environmental Quality, shall issue rules and regulations for the
36 transportation of hazardous waste.

1 (2) The rules and regulations shall be consistent with
2 applicable rules and regulations issued by the United States Department of
3 Transportation and with any rules, regulations, and standards issued by the
4 ~~Arkansas Department~~ Division of Environmental Quality under this subchapter.
5

6 SECTION 2748. Arkansas Code § 8-7-225 is amended to read as follows:
7 8-7-225. Records and examinations.

8 (a) The owner or operator of any hazardous waste management facility
9 or site shall notify the ~~Arkansas Department~~ Division of Environmental
10 Quality as to hazardous waste management activities in accordance with the
11 requirements of this subchapter and regulations, permits, and orders issued
12 under this subchapter, and shall establish and maintain such records, make
13 such reports, install, use, and maintain such monitoring equipment or
14 methods, take such samples, perform such tests, and provide such other
15 information to the ~~department~~ division as the Director of the ~~Arkansas~~
16 ~~Department~~ Division of Environmental Quality may reasonably require.

17 (b) The ~~department~~ division or any authorized employee or agent
18 thereof may examine and copy any books, papers, records, or memoranda
19 pertaining to the operation of the facility or site.

20 (c) The ~~department~~ division or any authorized employee or agent
21 thereof may enter upon any public or private property for the purpose of
22 obtaining information or conducting surveys or investigations necessary or
23 appropriate for the purposes of this subchapter.

24 (d)(1)(A) Any records, reports, or information obtained under this
25 subchapter and any permits, permit applications, and related documentation
26 shall be available to the public for inspection and copying.

27 (B) Upon a showing satisfactory to the director that the
28 records, reports, permits, documentation, information, or any part thereof
29 would, if made public, divulge methods or processes entitled to protection as
30 trade secrets, the director shall consider, treat, and protect the records,
31 reports, or information as confidential.

32 (2)(A) As necessary to carry out the provisions of this
33 subchapter, information afforded confidential treatment may be transmitted
34 under a continuing claim of confidentiality to other officers or employees of
35 the state or of the United States if the owner or operator of the facility to
36 which the information pertains is informed of the transmittal and if the

1 information has been acquired by the ~~department~~ division under the provisions
2 of this subchapter.

3 (B) The provisions of subdivision (d)(2)(A) of this
4 section shall not be construed to limit the ~~department's~~ division's authority
5 to release confidential information during emergency situations.

6 (3) Any violation of this subsection shall be unlawful and
7 constitute a misdemeanor.

8

9 SECTION 2749. Arkansas Code § 8-7-226 is amended to read as follows:
10 8-7-226. Fees – Fund established.

11 (a) The Arkansas Pollution Control and Ecology Commission shall have
12 authority to establish by regulation a schedule of fees to recover the costs
13 of processing permit applications and permit renewal proceedings, on-site
14 inspections and monitoring, the certification of personnel to operate
15 hazardous waste treatment, storage, or disposal facilities, and other
16 activities of ~~Arkansas Department~~ Division of Environmental Quality personnel
17 which are reasonably necessary to assure that generators and transporters of
18 hazardous waste and hazardous waste management facilities are complying with
19 the provisions of this subchapter and which reasonably should be borne by the
20 transporter, generator, or owner or operator of the hazardous waste
21 management facility.

22 (b) All fees collected pursuant to this section shall be dedicated to
23 enabling the ~~department~~ division to receive authorization to administer a
24 hazardous waste management program in Arkansas pursuant to the Resource
25 Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended
26 by the Hazardous and Solid Waste Amendments of 1984.

27 (c) The Hazardous Waste Permit Fund is established on the books of the
28 Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the
29 State. All fees collected under the provisions of this section shall be
30 deposited into this fund.

31 (d) The commission is hereby authorized to promulgate such rules and
32 regulations as are necessary to administer the fees, rates, tolls, or charges
33 for services established by this section and is directed to prescribe such
34 fees, rates, tolls, or charges for the services delivered by the ~~department~~
35 division or its successor in such manner as may be necessary to support the
36 programs of the ~~department~~ division as directed by the Governor and the

1 General Assembly.

2

3 SECTION 2750. Arkansas Code § 8-7-227(a)(3), concerning corrective
4 action at permitted facilities and interim status facilities, is amended to
5 read as follows:

6 (3) The corrective action component of the permit shall also
7 require that corrective action be taken beyond the hazardous waste treatment,
8 storage, or disposal facility boundary when necessary to protect human health
9 and the environment unless the owner or operator of the hazardous waste
10 treatment, storage, or disposal facility concerned demonstrates to the
11 satisfaction of the Director of the ~~Arkansas Department~~ Division of
12 Environmental Quality that, despite the owner's or operator's best efforts,
13 the owner or operator was unable to obtain the necessary permission to
14 undertake the action.

15

16 SECTION 2751. Arkansas Code § 8-7-302(5), concerning legislative
17 findings concerning the disposal of hazardous waste, is amended to read as
18 follows:

19 (5) The Arkansas Hazardous Waste Management Act of 1979, § 8-7-
20 201 et seq., authorizes the ~~Arkansas Department~~ Division of Environmental
21 Quality to encourage the development of interstate agreements for the
22 management of hazardous waste and to enter into such interstate agreements,
23 with the concurrence of the Governor.

24

25 SECTION 2752. Arkansas Code § 8-7-304(2) and (3), concerning the
26 definitions of "department" and "director" under the Arkansas Resource
27 Reclamation Act of 1979, are repealed.

28 ~~(2) "Department" means the Arkansas Department of Environmental~~
29 ~~Quality;~~

30 ~~(3) "Director" means the Director of the Arkansas Department of~~
31 ~~Environmental Quality;~~

32

33 SECTION 2753. The introductory language of Arkansas Code § 8-7-
34 304(7)(A), concerning the definition of "hazardous waste" under the Arkansas
35 Resource Reclamation Act of 1979, is amended to read as follows:

36 (7)(A) "Hazardous waste" means any waste or combination of

1 wastes of a solid, liquid, contained gaseous, or semisolid form which,
2 because of its quantity, concentration, or physical, chemical, or infectious
3 characteristics may, in the judgment of the ~~department~~ Division of
4 Environmental Quality:
5

6 SECTION 2754. Arkansas Code § 8-7-307(a)(2) and (3), concerning
7 unlawful actions, acts, and omissions of third parties under the Arkansas
8 Resource Reclamation Act of 1979, are amended to read as follows:

9 (2) Transport hazardous waste into or out of the state, except
10 as provided by regulations established by the ~~Arkansas Department~~ Division of of
11 Environmental Quality pursuant to the provisions of this subchapter; or

12 (3) Dispose of hazardous waste in the state except as provided
13 by regulations established by the ~~department~~ division pursuant to this
14 subchapter.
15

16 SECTION 2755. The introductory language of Arkansas Code § 8-7-308,
17 concerning the powers and duties of the Arkansas Department of Environmental
18 Quality, is amended to read as follows:

19 The ~~Arkansas Department~~ Division of Environmental Quality shall have
20 the following powers and duties:
21

22 SECTION 2756. Arkansas Code § 8-7-308(4) and (5), concerning the
23 powers and duties of the Arkansas Department of Environmental Quality, are
24 amended to read as follows:

25 (4) To prohibit, by regulation or by condition of permit, the
26 disposal of any hazardous waste within the state unless the owner or
27 custodian of the hazardous waste can demonstrate to the reasonable
28 satisfaction of the Director of the ~~Arkansas Department~~ Division of
29 Environmental Quality that it is technically or economically infeasible for
30 the hazardous waste to be treated;

31 (5) To issue, continue in effect, revoke, modify, or deny, under
32 such terms as the ~~department~~ division or the General Assembly may prescribe,
33 permits for the establishment, construction, operation, or maintenance of
34 hazardous waste treatment or disposal facilities;
35

36 SECTION 2757. Arkansas Code § 8-7-502(b) and (c), concerning the

1 legislative intent under the Remedial Action Trust Fund Act, are amended to
2 read as follows:

3 (b) The purpose of this subchapter is to encourage privately funded
4 remedial action and to clarify that persons who have undertaken remedial
5 action at a hazardous substance site in response to an action initiated by
6 the ~~Arkansas Department~~ Division of Environmental Quality pursuant to § 8-7-
7 508 may obtain contribution from any other person who is liable for
8 remediation of the hazardous substance site.

9 (c) A further purpose of this subchapter is to clarify the General
10 Assembly's intent to provide the ~~department~~ division with the necessary funds
11 for remedial action at a hazardous substance site, recognizing that both
12 public and private funds must be expended to implement remedial action at the
13 hazardous substance sites which exist in this state. Costs and expenses for
14 remedial action, whether expended by the ~~department~~ division or by any person
15 liable for the hazardous substance site, are legal damages to persons liable
16 to the state and to persons liable to any other person for contribution,
17 whether the liability arises by voluntary compliance with this subchapter
18 pursuant to an order from or settlement with the ~~department~~ division, or by
19 suit for injunctive relief, declaratory judgment, contribution, damages, or
20 restitution, and whether the suit is brought by the state or by any party
21 authorized to bring a suit for relief under this subchapter.

22

23 SECTION 2758. Arkansas Code § 8-7-503(2) and (3), concerning the
24 definitions of "department" and "director" under the Remedial Action Trust
25 Fund Act, are repealed.

26 ~~(2) "Department" means the Arkansas Department of Environmental~~
27 ~~Quality;~~

28 ~~(3) "Director" means the Director of the Arkansas Department of~~
29 ~~Environmental Quality;~~

30

31 SECTION 2759. Arkansas Code § 8-7-504(b)(1), concerning the penalties
32 for unlawful acts under the Remedial Action Trust Fund Act, is amended to
33 read as follows:

34 (1) A civil penalty in such amount as the Director of the
35 ~~Arkansas Department~~ Division of Environmental Quality shall find appropriate,
36 not to exceed twenty-five thousand dollars (\$25,000) per day of the

1 violation;

2

3 SECTION 2760. Arkansas Code § 8-7-505(3), concerning unlawful acts
4 under the Remedial Action Trust Fund Act, is amended to read as follows:

5 (3) To violate any order issued by the ~~Arkansas Department~~
6 Division of Environmental Quality under this subchapter or any provision of
7 such an order.

8

9 SECTION 2761. Arkansas Code § 8-7-508(a), concerning remedial and
10 removal authority of the Arkansas Department of Environmental Quality, is
11 amended to read as follows:

12 (a)(1) Upon finding that a hazardous substance site exists or may
13 exist, the ~~Arkansas Department~~ Division of Environmental Quality, upon
14 reasonable notice and after opportunity for hearing, may issue an order to
15 any person liable for the site under § 8-7-512 if that person has caused or
16 contributed to the release or threatened release of hazardous substances at
17 the hazardous substance site. This order shall require that such remedial
18 actions be taken as are necessary to investigate, control, prevent, abate,
19 treat, or contain any releases or threatened releases of hazardous substances
20 from the hazardous substance site.

21 (2) The fact that such a hazardous substance site is or is not
22 listed by the Arkansas Pollution Control and Ecology Commission pursuant to §
23 8-7-509(f) shall in no manner limit the authority of the ~~department~~ division
24 under this subchapter.

25

26 SECTION 2762. Arkansas Code § 8-7-508(b), concerning remedial and
27 removal authority of the Arkansas Department of Environmental Quality, is
28 amended to read as follows:

29 (b) The Director of the ~~Arkansas Department~~ Division of Environmental
30 Quality or any employee or authorized agent of the ~~department~~ division may
31 enter upon any private or public property for the purpose of collecting
32 information under this subchapter and for initiating and implementing
33 remedial actions.

34

35 SECTION 2763. Arkansas Code § 8-7-508(d), concerning remedial and
36 removal authority of the Arkansas Department of Environmental Quality, is

1 amended to read as follows:

2 (d) In taking removal action or remedial actions pursuant to this
3 subchapter, the ~~department~~ division or any contractor of the ~~department~~
4 division under this section shall not be required to obtain any state or
5 local permit for the portion of any removal action or remedial action
6 conducted pursuant to this subchapter entirely on site when the removal
7 action or remedial action is otherwise carried out in compliance with the
8 regulations of the ~~department~~ division.

9

10 SECTION 2764. Arkansas Code § 8-7-508(f), concerning remedial and
11 removal authority of the Arkansas Department of Environmental Quality, is
12 amended to read as follows:

13 (f) Whenever the director has reason to believe that a release or
14 threatened release of hazardous substances may present an imminent and
15 substantial endangerment to the public health, safety, or welfare or to the
16 environment, the director and the employees and the authorized
17 representatives of the ~~department~~ division shall have the right to enter upon
18 any affected private or public property for the purpose of collecting
19 information and for initiating and implementing appropriate removal or
20 remedial actions.

21

22 SECTION 2765. Arkansas Code § 8-7-509(b), concerning the Hazardous
23 Substance Remedial Action Trust Fund, is amended to read as follows:

24 (b) The Hazardous Substance Remedial Action Trust Fund will be
25 administered by the Director of the ~~Arkansas Department~~ Division of
26 Environmental Quality, who shall authorize expenditures from the Hazardous
27 Substance Remedial Action Trust Fund.

28

29 SECTION 2766. Arkansas Code § 8-7-509(d)(3)(A), concerning the
30 Hazardous Substance Remedial Action Trust Fund, is amended to read as
31 follows:

32 (A) For the costs and expenses reasonably necessary for
33 the administration of this subchapter by the ~~Arkansas Department~~ Division of
34 Environmental Quality;

35

36 SECTION 2767. Arkansas Code § 8-7-509(e)(2), concerning the Hazardous

1 Substance Remedial Action Trust Fund, is amended to read as follows:

2 (2) Reimbursement of all costs incurred by the ~~department~~
3 division in taking removal actions in connection with a release or threatened
4 release.

5

6 SECTION 2768. Arkansas Code § 8-7-509(f)(1), concerning the Hazardous
7 Substance Remedial Action Trust Fund, is amended to read as follows:

8 (f)(1) No expenditures from the Hazardous Substance Remedial Action
9 Trust Fund, as authorized by subdivisions (d)(3)(B) and (C) of this section,
10 shall be made prior to the approval by the Arkansas Pollution Control and
11 Ecology Commission of a prioritized listing of hazardous substance sites at
12 which remedial actions are authorized through the use of Hazardous Substance
13 Remedial Action Trust Fund moneys. This listing shall be revised annually by
14 the ~~department~~ division and submitted to the commission for approval after
15 public notice and opportunity for hearing.

16

17 SECTION 2769. Arkansas Code § 8-7-510 is amended to read as follows:

18 8-7-510. Federal actions or compensation not to be duplicated.

19 No actions taken pursuant to this subchapter by the ~~Arkansas Department~~
20 Division of Environmental Quality shall duplicate federal actions, and no
21 claims for the costs of response or other claims compensable under the
22 Comprehensive Environmental Response, Compensation, and Liability Act of
23 1980, Pub. L. No. 96-510, shall be compensable under this subchapter.

24

25 SECTION 2770. Arkansas Code § 8-7-511(a) and (b), concerning the
26 furnishing of information to the Arkansas Department of Environmental
27 Quality, are amended to read as follows:

28 (a) For purposes of assisting in determining the need for remedial
29 action in connection with a release or threat of release of hazardous
30 substances under this subchapter or for enforcing the provisions of this
31 subchapter, any person who stores, treats, or disposes of hazardous
32 substances, or, if necessary to ascertain facts not available at the site or
33 facility where the hazardous substances are stored, treated, or disposed of,
34 any person who generates, transports, otherwise handles, or has handled
35 hazardous substances shall, upon request of any officer or employee of the
36 ~~Arkansas Department~~ Division of Environmental Quality, furnish information

1 relating to the hazardous substance and permit the person at all reasonable
2 times to have access to and copy all records relating to the hazardous
3 substances and to inspect and obtain samples of any such hazardous substances
4 or other materials.

5 (b) However, any information which would constitute a trade secret
6 under § 4-75-601 et seq., obtained by the ~~department~~ Department of Energy and
7 Environment, the Secretary of the Department of Energy and Environment, the
8 division, or its any employees of the Department of Energy and Environment or
9 division, in the administration of this subchapter, except emission data,
10 shall be kept confidential.

11

12 SECTION 2771. Arkansas Code § 8-7-512(b)(1), concerning the liability
13 for cost and immunity from liability, is amended to read as follows:

14 (b)(1) No person shall be liable under this subchapter for damages as
15 a result of actions taken or omitted in the course of rendering care,
16 assistance, or advice at the direction of the Department of Energy and
17 Environment, the Secretary of the Department of Energy and Environment, or
18 the Arkansas Department Division of Environmental Quality, with respect to an
19 incident creating a danger to public health or welfare or the environment as
20 a result of any release of a hazardous substance or the threat of a release
21 of a hazardous substance.

22

23 SECTION 2772. Arkansas Code § 8-7-512(c)(1), concerning the liability
24 for cost and immunity from liability, is amended to read as follows:

25 (c)(1) A person taking remedial action or removal action under this
26 subchapter as a contractor for the department or division shall not be liable
27 under this subchapter or under any other state law to any person for
28 injuries, costs, damages, expenses, or other liability, including, but not
29 limited to, claims for indemnification or contribution and claims by third
30 parties for death, personal injury, illness, loss of or damage to property,
31 or economic loss resulting from a release or threatened release of hazardous
32 substances.

33

34 SECTION 2773. Arkansas Code § 8-7-514(a) and (b), concerning recovery
35 of expenditures from the Hazardous Substance Remedial Action Trust Fund, are
36 amended to read as follows:

1 (a) After an expenditure from the Hazardous Substance Remedial Action
2 Trust Fund for a removal action or remedial action, the ~~Arkansas Department~~
3 Division of Environmental Quality shall institute action to recover the
4 expenditure from the person or persons liable for causing the release of the
5 hazardous substance, including taking any appropriate legal action.

6 (b) Making use of any and all appropriate existing state legal
7 remedies, the ~~department~~ division or the Attorney General shall act to
8 recover the amount expended by the state for any and all remedial action or
9 removal actions from any and all parties identified as responsible parties
10 for each hazardous substance.

11
12 SECTION 2774. Arkansas Code § 8-7-516(b), concerning liens for
13 expenditures and the value of improvements, is amended to read as follows:

14 (b) The lien shall be effective upon the filing by the Director of the
15 ~~Arkansas Department~~ Division of Environmental Quality of a notice of lien
16 with the circuit clerk in the county in which the real property is located.
17

18 SECTION 2775. Arkansas Code § 8-7-516(d), concerning liens for
19 expenditures and the value of improvements, is amended to read as follows:

20 (d) The notice of lien shall be filed within thirty (30) days of the
21 date of the last act performed on the real property by the ~~Arkansas~~
22 ~~Department~~ Division of Environmental Quality or its agent under this
23 subchapter.
24

25 SECTION 2776. Arkansas Code § 8-7-517 is amended to read as follows:

26 8-7-517. Punitive damages.

27 If any person who is liable for a release or threat of release of a
28 hazardous substance fails without sufficient cause to properly provide
29 remedial action or removal action upon order of the ~~Arkansas Department~~
30 Division of Environmental Quality, the person may be liable to the state for
31 punitive damages in an amount equal to three (3) times the amount of any
32 costs incurred by the state as a result of the failure to take proper action.
33

34 SECTION 2777. The introductory language of Arkansas Code § 8-7-518(a),
35 concerning fees on the generation of hazardous waste, is amended to read as
36 follows:

1 (a) On or before April 1 of each year, the following persons shall
2 report the total amount of such hazardous waste generated or accepted to the
3 Director of the ~~Arkansas Department~~ Division of Environmental Quality, except
4 as provided in this section, on forms prescribed by the ~~Arkansas Department~~
5 Division of Environmental Quality:

6
7 SECTION 2778. The introductory language of Arkansas Code § 8-7-
8 518(b)(1)(A), concerning fees on the generation of hazardous waste, is
9 amended to read as follows:

10 (b)(1)(A) Except as provided in this section, there is assessed a fee
11 to be collected by the ~~department~~ division upon every person who generated
12 hazardous waste in Arkansas or who accepted hazardous waste generated outside
13 of the state which were subsequently received for treatment, storage, or
14 disposal in Arkansas based upon the combined total of such hazardous waste as
15 is required to be reported pursuant to subsection (a) of this section.

16
17 SECTION 2779. Arkansas Code § 8-7-518(b)(2)(C) and (D), concerning
18 fees on the generation of hazardous waste, are amended to read as follows:

19 (C) The ~~department~~ division shall calculate the amount of
20 fee refund due and provide the applicant with a copy of the calculation.

21 (D) The ~~department~~ division shall promptly pay any refund
22 due from the Hazardous Substance Remedial Action Trust Fund.

23
24 SECTION 2780. Arkansas Code § 8-7-518(c)-(e), concerning fees on the
25 generation of hazardous waste, are amended to read as follows:

26 (c) On or before July 1 of each year, each person subject to
27 subsection (a) of this section shall pay to the ~~department~~ division the fee
28 required by subsection (b) of this section.

29 (d) To the extent practicable, the ~~department~~ division shall
30 coordinate the reporting requirements of this section with the reporting
31 requirements of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-
32 201 et seq., and the regulations adopted under the Arkansas Hazardous Waste
33 Management Act of 1979, § 8-7-201 et seq. The content of the reporting shall
34 be consistent with federal reporting requirements pursuant to the Resource
35 Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., in all
36 respects with the exception of frequency.

1 (e) The ~~department~~ division shall prepare annually a statement of all
2 revenues collected by the fees under this section, as well as all other
3 revenues to the fund, and all expenditures from the fund and obligations of
4 the fund and the current balance in the fund.

5
6 SECTION 2781. Arkansas Code § 8-7-519 is amended to read as follows:
7 8-7-519. Appeals.

8 An appeal may be taken from any final order of the ~~Arkansas Department~~
9 Division of Environmental Quality under this subchapter as provided in §§ 8-
10 4-202, 8-4-210, 8-4-212 – 8-4-214, 8-4-218, 8-4-219, and 8-4-221 – 8-4-229
11 and in accordance with regulations promulgated by the Arkansas Pollution
12 Control and Ecology Commission under this subchapter.

13
14 SECTION 2782. Arkansas Code § 8-7-521(a) and (b), concerning site
15 access for remedial or removal actions, are amended to read as follows:

16 (a) For purposes of responding to an administrative or judicial order
17 or settlement entered pursuant to § 8-7-508, the owner or the operator of a
18 facility that is a hazardous substance site, or any person who otherwise
19 controls access to such a facility, shall provide access to the ~~Arkansas~~
20 ~~Department~~ Division of Environmental Quality, any employee of the ~~department~~
21 division, or any other person, duly designated by the Director of the
22 ~~Arkansas Department~~ Division of Environmental Quality, who undertakes such
23 activities as are required to carry out the terms of the order or settlement.

24 (b) Any person who impedes or interferes with a person who is entitled
25 to site access for the purpose of conducting remedial action or removal
26 action at a hazardous substance site pursuant to the terms of an
27 administrative or judicial order or settlement may be assessed a civil
28 penalty by the ~~department~~ division in an administrative proceeding or by the
29 court in a judicial proceeding for a site access injunction of up to ten
30 thousand dollars (\$10,000) per day that site access is impeded.

31
32 SECTION 2783. Arkansas Code § 8-7-603 is amended to read as follows:
33 8-7-603. Approval and issuance of permits.

34 Neither the ~~Arkansas Department~~ Division of Environmental Quality nor
35 any other agency or authority having the responsibility for approving and
36 issuing permits for facilities for the disposal or storage of low-level

1 radioactive waste in this state shall have the authority to approve or issue
2 a permit for any facility unless the facility will fully comply with the
3 requirements of this subchapter in all respects.
4

5 SECTION 2784. Arkansas Code § 8-7-702(1), concerning the definition of
6 a "hazardous site" regarding federally listed hazardous sites, is amended to
7 read as follows:

8 (1) "Hazardous site" means any geographic area located, in whole
9 or in part, in the State of Arkansas, access to or use of which is determined
10 by the ~~Arkansas Department~~ Division of Environmental Quality to be necessary
11 or appropriate to implement a response ordered by the President of the United
12 States;
13

14 SECTION 2785. Arkansas Code § 8-7-705 is amended to read as follows:

15 8-7-705. Restrictions on use of hazardous substances.

16 Construction on or at a hazardous site and the use of such hazardous
17 site for any residential, commercial, manufacturing, industrial, or
18 recreational purposes shall be prohibited unless and until the ~~Arkansas~~
19 ~~Department~~ Division of Environmental Quality issues an order terminating,
20 wholly or partially, such prohibitions. Such order shall be subject to the
21 procedural guidelines set forth in §§ 8-4-212 – 8-4-214 and 8-4-222 – 8-4-229
22 of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.
23

24 SECTION 2786. Arkansas Code § 8-7-706 is amended to read as follows:

25 8-7-706. Ad valorem tax exemption.

26 Upon initiation of a response action at a hazardous site, such
27 hazardous site shall be appraised at no value for purposes of any ad valorem
28 taxes levied by any state, county, or local governmental authority unless and
29 until the ~~Arkansas Department~~ Division of Environmental Quality issues an
30 order wholly terminating the construction and use prohibitions established by
31 § 8-7-705. This section shall not apply to the interest in such hazardous
32 site owned by any passive-site owner or its successors and assigns that have
33 violated § 8-7-703(a).
34

35 SECTION 2787. Arkansas Code § 8-7-801(4), concerning the definition of
36 "department" under the laws for regulated substance storage tanks, is

1 repealed.

2 ~~(4) "Department" means the Arkansas Department of Environmental~~
3 ~~Quality;~~

4
5 SECTION 2788. Arkansas Code § 8-7-801(10)(B), concerning the
6 definition of "release" under the laws for regulated substance storage tanks,
7 is amended to read as follows:

8 (B) "Release" does not include releases that are permitted
9 or authorized by the ~~department~~ division or by federal law;

10

11 SECTION 2789. Arkansas Code § 8-7-802(a)(2)(B)(ii), concerning the
12 powers and duties of the Arkansas Pollution Control and Ecology Commission,
13 is amended to read as follows:

14 (ii) The fee shall be used by the ~~Arkansas~~
15 ~~Department~~ Division of Environmental Quality for administrative and program
16 costs.

17

18 SECTION 2790. Arkansas Code § 8-7-802(a)(2)(C)(ii), concerning the
19 powers and duties of the Arkansas Pollution Control and Ecology Commission,
20 is amended to read as follows:

21 (ii) The fee shall be used by the ~~Arkansas~~
22 ~~Department~~ Division of Environmental Quality for administrative and program
23 costs, and ten dollars (\$10.00) of the fee collected by the ~~Arkansas~~
24 ~~Department~~ Division of Environmental Quality shall be remitted to the State
25 Treasury, there to be deposited as special revenues to the credit of the
26 ~~Department~~ Division of Arkansas State Police Fund to be used for the purposes
27 of above-ground storage tank monitoring and regulation by the ~~Department~~
28 Division of Arkansas State Police.

29

30 SECTION 2791. The introductory language of Arkansas Code § 8-7-802(b),
31 concerning the powers and duties of the Arkansas Pollution Control and
32 Ecology Commission, is amended to read as follows:

33 (b) The ~~Arkansas Department~~ Division of Environmental Quality shall
34 have the following powers and duties:

35

36 SECTION 2792. Arkansas Code § 8-7-802(b)(3), concerning the powers and

1 duties of the Arkansas Pollution Control and Ecology Commission, is amended
2 to read as follows:

3 (3) To accept and administer loans and grants from the United
4 States Government and from such other sources as may be available to the
5 ~~Arkansas Department~~ Division of Environmental Quality for the planning,
6 implementation, and enforcement of an underground storage tank program for
7 release detection, prevention, corrective action, and financial
8 responsibility;

9

10 SECTION 2793. Arkansas Code § 8-7-802(b)(5), concerning the powers and
11 duties of the Arkansas Pollution Control and Ecology Commission, is amended
12 to read as follows:

13 (5) To enter upon any public or private property for the purpose
14 of obtaining information, conducting surveys or investigations, or taking
15 corrective action, and the ~~Arkansas Department~~ Division of Environmental
16 Quality may copy or require submission of books, papers, records, memoranda,
17 or data pertaining to the management of underground storage tanks;

18

19 SECTION 2794. Arkansas Code § 8-7-804 is amended to read as follows:
20 8-7-804. Procedures generally.

21 The procedure of the ~~Arkansas Department~~ Division of Environmental
22 Quality and the Arkansas Pollution Control and Ecology Commission for
23 issuance of rules and regulations, conduct of hearings, notice, power of
24 subpoena, review of action on permits, right of appeal, presumptions,
25 finality of actions, and related matters shall be as provided in §§ 8-4-101 –
26 8-4-106 and 8-4-201 – 8-4-229, including, but not limited to, §§ 8-4-205, 8-
27 4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229 to the extent they are not in
28 conflict with the provisions of this subchapter.

29

30 SECTION 2795. Arkansas Code § 8-7-805(a), concerning the license
31 requirement to certify the installation or testing of an underground storage
32 tank, is amended to read as follows:

33 (a) It shall be unlawful for an individual to certify the installation
34 or testing of an underground storage tank unless the individual has been duly
35 licensed by the ~~Arkansas Department~~ Division of Environmental Quality.

36

1 SECTION 2796. Arkansas Code § 8-7-805(b)(1)(B), concerning the license
2 requirement to certify the installation or testing of an underground storage
3 tank, is amended to read as follows:

4 (B) Which provides that the ~~department~~ division is the
5 obligee or payee of the instrument and otherwise complies with the
6 regulations promulgated under this subchapter.

7
8 SECTION 2797. Arkansas Code § 8-7-805(d), concerning the license
9 requirement to certify the installation or testing of an underground storage
10 tank, is amended to read as follows:

11 (d) In the event the licensee or contracting company fails to properly
12 install, remove, repair, close, upgrade, or test any underground storage tank
13 pursuant to state law or regulation, the Director of the ~~Arkansas Department~~
14 Division of Environmental Quality shall commence proceedings to collect on
15 the surety bond, letter of credit, or cash bond on which the ~~department~~
16 division is the obligee or payee.

17
18 SECTION 2798. Arkansas Code § 8-7-806(a)(3), concerning penalties and
19 enforcement for regulated substance storage tanks, is amended to read as
20 follows:

21 (3) To violate any order issued by the ~~Arkansas Department~~
22 Division of Environmental Quality under this subchapter or any provision of
23 any such order.

24
25 SECTION 2799. Arkansas Code § 8-7-806(d)(5), concerning penalties and
26 enforcement for regulated substance storage tanks, is amended to read as
27 follows:

28 (5) The administrative procedures set forth in § 8-7-804 may be
29 used to recover all costs, expenses, and damages to the ~~department~~ division
30 and any other agency or subdivision of the state in enforcing or effectuating
31 the provisions of this subchapter, including, but not limited to, natural
32 resource damages.

33
34 SECTION 2800. The introductory language of Arkansas Code § 8-7-806(e),
35 concerning penalties and enforcement for regulated substance storage tanks,
36 is amended to read as follows:

1 (e) The ~~department~~ division is authorized to institute a civil action
2 in any court of competent jurisdiction to accomplish any or all of the
3 following:

4
5 SECTION 2801. Arkansas Code § 8-7-806(e)(3), concerning penalties and
6 enforcement for regulated substance storage tanks, is amended to read as
7 follows:

8 (3) Recover all costs, expenses, and damages to the ~~department~~
9 division and any other agency or subdivision of the state in enforcing or
10 effectuating the provisions of this subchapter, including, but not limited
11 to, natural resource damages;

12
13 SECTION 2802. Arkansas Code § 8-7-807(a)-(c), concerning the
14 responsibility and liability of an owner of a underground storage tank, are
15 amended to read as follows:

16 (a)(1) Upon a determination that a release of a regulated substance
17 from a storage tank has occurred, the owner or operator shall notify the
18 ~~Arkansas Department~~ Division of Environmental Quality. The owner or operator
19 shall immediately undertake to collect and remove the release and to restore
20 the area affected in accordance with the requirements of this subchapter.

21 (2) However, the obligation of an owner or operator of an
22 aboveground storage tank to notify the ~~department~~ division or undertake the
23 other activities required in this subsection shall not exceed and will be
24 limited to the existing requirements of any other applicable federal or state
25 statutes or regulations.

26 (b) If the owner or operator fails to proceed as required in
27 subsection (a) of this section, the owner and operator shall be liable to the
28 ~~department~~ division for any costs incurred by the ~~department~~ division for
29 undertaking corrective action or enforcement action with respect to the
30 release of a regulated substance from a storage tank.

31 (c)(1)(A) A release site property owner or adjacent property owner
32 shall not unduly impede or interfere with the efforts of the ~~department~~
33 division or the owner or operator to undertake investigation, site
34 assessment, or corrective action in accordance with the requirements of this
35 subchapter.

36 (B) The ~~department~~ division or the owner, as defined in §

1 8-7-801, or operator shall undertake investigation, site assessment, or
2 corrective action, as approved by the ~~department~~ division after notice to the
3 affected parties, that minimizes to the most reasonable extent practicable
4 any interference with the release site property owner's or adjacent property
5 owner's use and enjoyment of the property, taking into consideration the
6 relevant private and commercial interests and the release site property
7 owner's or adjacent property owner's need for access.

8 (2)(A) A release site property owner or adjacent property owner
9 that violates subdivision (c)(1) of this section is liable for any
10 investigation, site assessment, or corrective action costs resulting from the
11 violation.

12 (B) If the release site property owner or adjacent
13 property owner denies access to property when the access is reasonably
14 necessary for investigation, site assessment, or corrective action undertaken
15 by the ~~department~~ division or by the owner or operator under a ~~department~~
16 division directive, order, or approved corrective action plan, the ~~department~~
17 division may order the release site property owner or adjacent property owner
18 to undertake the portion of investigation, site assessment, or corrective
19 action that was prohibited by the denial of access.

20 (3) This section does not impair any right of the release site
21 property owner or adjacent property owner to seek equitable or legal
22 remedies, including without limitation claims for trespass, compensation as
23 the result of eminent domain, damages for temporary or permanent takings of
24 rights in land, contribution, and any other right or remedy allowed by state
25 or federal law or regulation.

26
27 SECTION 2803. Arkansas Code § 8-7-807(e), concerning the
28 responsibility and liability of an owner of a underground storage tank, is
29 amended to read as follows:

30 (e) Any costs recovered by the ~~department~~ division under this section
31 shall be used to reimburse the Petroleum Storage Tank Trust Fund in the
32 amount utilized by the ~~department~~ division and the balance, if any, deposited
33 into the Regulated Substance Storage Tank Program Fund.

34
35 SECTION 2804. Arkansas Code § 8-7-808 is amended to read as follows:

36 8-7-808. Regulated Substance Storage Tank Program Fund.

1 There is hereby established on the books of the Treasurer of State, the
2 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
3 known as the "Regulated Substance Storage Tank Program Fund". Such Regulated
4 Substance Storage Tank Program Fund shall consist of federal funds, any
5 necessary state matching funds as may be provided by the General Assembly,
6 licensure fees, annual registration fees, and any moneys recovered by the
7 ~~Arkansas Department~~ Division of Environmental Quality which are attributable
8 to collections of civil penalties under § 8-7-806 or to costs under § 8-7-807
9 not owed the Petroleum Storage Tank Trust Fund. All said moneys shall be
10 deposited as special revenues to be used in the administration of this
11 subchapter.

12
13 SECTION 2805. Arkansas Code § 8-7-809(b)(1), concerning corrective
14 actions and orders of the Director of the Arkansas Department of
15 Environmental Quality, is amended to read as follows:

16 (b)(1) Notwithstanding any other provisions of this subchapter, the
17 Director of the ~~Arkansas Department~~ Division of Environmental Quality, upon
18 finding that the release may present an imminent and substantial hazard to
19 the health of persons or to the environment and that an emergency exists
20 requiring immediate action to protect the public health and welfare or the
21 environment may, without notice or hearing, issue an order reciting the
22 existence of such an imminent hazard and emergency and requiring that such
23 action be taken as he or she determines to be necessary to protect the health
24 of such persons or the environment and to meet the emergency.

25
26 SECTION 2806. Arkansas Code § 8-7-810(a), concerning insurance pools
27 for owners and operators of storage tanks, is amended to read as follows:

28 (a) Owners or operators of storage tanks who are unable to demonstrate
29 financial responsibility in the minimum amounts specified by the ~~Arkansas~~
30 ~~Department~~ Division of Environmental Quality may establish an insurance pool
31 in order to demonstrate such financial responsibility.

32
33 SECTION 2807. Arkansas Code § 8-7-811 is amended to read as follows:

34 8-7-811. Trade secrets.

35 (a) Any records, reports, or information obtained by the Department of
36 Energy and Environment, the Secretary of the Department of Energy and

1 Environment, or the Arkansas Department Division of Environmental Quality or
2 by the department's or division's employees in the administration of this
3 subchapter, except release data, shall be kept confidential upon a showing
4 satisfactory to the Director of the Arkansas Department Division of
5 Environmental Quality that the records, reports, or information would
6 constitute a trade secret under § 4-75-601 et seq.

7 (b) As necessary to carry out the provisions of this subchapter,
8 information afforded confidential treatment may be transmitted under a
9 continuing claim of confidentiality to other officers or employees of the
10 state or of the United States if the owner or operator of the facility to
11 which the information pertains is informed of the transmittal and if the
12 information has been acquired by the ~~department's~~ division's under the
13 provisions of this subchapter.

14 (c) The provisions of this section shall not be construed to limit the
15 ~~department's~~ division's authority to release confidential information during
16 emergency situations.

17 (d) Any violation of this section shall be unlawful and shall
18 constitute a misdemeanor.

19
20 SECTION 2808. Arkansas Code § 8-7-812(b), concerning the conflicts
21 between regulated substance storage tanks and the Arkansas Water and Air
22 Pollution Control Act, is amended to read as follows:

23 (b) The provisions of this subchapter and the rules and regulations
24 promulgated pursuant to this subchapter shall govern if they conflict with
25 the provisions of the Arkansas Water and Air Pollution Control Act, § 8-4-101
26 et seq., the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the
27 Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., or any
28 action taken by the Arkansas Department Division of Environmental Quality
29 under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.,
30 the Arkansas Solid Waste Management Act, § 8-6-201 et seq., or the Arkansas
31 Hazardous Waste Management Act of 1979, § 8-7-201 et seq.

32
33 SECTION 2809. Arkansas Code § 8-7-902(7) and (8), concerning the
34 definition of "department" and "director" under the Petroleum Storage Tank
35 Trust Fund Act, are repealed.

36 ~~(7) "Department" means the Arkansas Department of Environmental~~

1 ~~Quality;~~

2 ~~(8) "Director" means the Director of the Arkansas Department of~~
3 ~~Environmental Quality;~~

4

5 SECTION 2810. Arkansas Code § 8-7-902(15)(B), concerning the
6 definition of "release" under the Petroleum Storage Tank Trust Fund Act, is
7 amended to read as follows:

8 (B) "Release" does not include a release that is permitted
9 or authorized by the ~~department~~ division or by federal law;

10

11 SECTION 2811. Arkansas Code § 8-7-903(a), concerning the rules,
12 regulations, and powers of the Director of the Department of Finance and
13 Administration, the Arkansas Pollution Control and Ecology Commission, and
14 the Arkansas Department of Environmental Quality, is amended to read as
15 follows:

16 (a) The ~~Director~~ Secretary of the Department of Finance and
17 Administration is authorized to adopt appropriate rules and regulations not
18 inconsistent with this subchapter as he or she may deem necessary to carry
19 out the intent and purposes of and to assure compliance with this subchapter.

20

21 SECTION 2812. Arkansas Code § 8-7-903(c), concerning the rules and
22 regulations and the powers and duties of the Director of the Department of
23 Finance and Administration, is amended to read as follows:

24 (c) The ~~Arkansas Department~~ Division of Environmental Quality shall
25 have the authority to enter upon the property of any owner or operator of an
26 aboveground storage tank to obtain information, conduct surveys, or review
27 records for the purpose of determining substantial compliance, as defined by
28 this subchapter and regulations promulgated thereunder, with all state and
29 federal laws and regulations relating to aboveground storage tanks prior to
30 the director's approval of a claim for reimbursement or disbursement.

31

32 SECTION 2813. Arkansas Code § 8-7-904(e), concerning the establishment
33 of the Advisory Committee on Petroleum Storage Tanks, is amended to read as
34 follows:

35 (e) The ~~Arkansas Department~~ Division of Environmental Quality shall
36 provide adequate staff to support the activities of the committee.

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SECTION 2814. Arkansas Code § 8-7-904(g), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

(g) The committee shall advise and make recommendations to the Director of the ~~Arkansas Department~~ Division of Environmental Quality regarding claims for payment under this subchapter.

SECTION 2815. Arkansas Code § 8-7-904(h), concerning the establishment of the Advisory Committee on Petroleum Storage Tanks, is amended to read as follows:

(h) The committee shall advise the ~~department~~ division and the Arkansas Pollution Control and Ecology Commission regarding promulgation of rules and regulations concerning storage tanks.

SECTION 2816. Arkansas Code § 8-7-905(b) and (c), concerning the establishment of the Petroleum Storage Tank Trust Fund, are amended to read as follows:

(b) The fund will be administered by the Director of the ~~Arkansas Department~~ Division of Environmental Quality, who shall make disbursements from the fund as authorized by this subchapter.

(c) The fund shall consist of gifts, grants, donations, and such other funds as may be made available by the General Assembly, including all interest earned upon money deposited into the fund, fees assessed under this subchapter, any moneys recovered by the ~~Arkansas Department~~ Division of Environmental Quality, the proceeds of bonds issued by the Arkansas Development Finance Authority for the benefit of the fund, and any other moneys legally designated for the fund.

SECTION 2817. Arkansas Code § 8-7-905(d)(4) and (5), concerning the establishment of the Petroleum Storage Tank Trust Fund, are amended to read as follows:

(4) To pay reasonable and necessary costs and expenses of the ~~department~~ division for taking corrective action caused by accidental releases from a storage tank of unknown ownership or when corrective action is not commenced by the owner or operator in a timely manner;

1 (5)(A) To reimburse owners and operators in the vicinity of the
2 release for performing short-term testing or monitoring which is in addition
3 to that required by the ~~department's~~ division's rules and regulations if the
4 ~~department~~ division has a reasonable basis for believing that the petroleum
5 underground storage tank or tanks may be the source of the release.

6 (B) The owners and operators of petroleum underground
7 storage tanks, including out-of-service and nonoperational petroleum
8 underground storage tanks, not found to be the source of the release and who
9 cooperate with the ~~department~~ division may apply to the fund for
10 reimbursement for such testing and monitoring costs, not including lost
11 managerial time or loss of revenues because of temporary business closure;
12 and
13

14 SECTION 2818. Arkansas Code § 8-7-905(i)(2), concerning the
15 establishment of the Petroleum Storage Tank Trust Fund, is amended to read as
16 follows:

17 (2) The procedures of the ~~department~~ division and the Arkansas
18 Pollution Control and Ecology Commission for issuance of rules and
19 regulations, conduct of hearings, notice, power of subpoena, right of appeal,
20 presumptions, finality of actions, and related matters shall be as provided
21 in §§ 8-4-202, 8-4-210 – 8-4-214, and 8-4-218 – 8-4-229, and in rules and
22 regulations applicable to administrative procedures of the ~~department~~
23 division and the Arkansas Pollution Control and Ecology Commission to the
24 extent they are not in conflict with the provisions of this subchapter.
25

26 SECTION 2819. Arkansas Code § 8-7-907(a)(1), concerning payments for
27 corrective action from the Petroleum Storage Tank Trust Fund, is amended to
28 read as follows:

29 (a)(1) No payment for corrective action shall be paid from the
30 Petroleum Storage Tank Trust Fund until the owner or operator has expended
31 seven thousand five hundred dollars (\$7,500) on corrective action for the
32 occurrence, except in cases in which the Director of the ~~Arkansas Department~~
33 Division of Environmental Quality is using emergency authority under § 8-7-
34 905(e). It is the intent of the General Assembly that this initial level of
35 expenditure be considered the equivalent of an insurance policy deductible.
36

1 SECTION 2820. Arkansas Code § 8-7-907(c)(2) and (3), concerning
2 payments for corrective action from the Petroleum Storage Tank Trust Fund,
3 are amended to read as follows:

4 (2) The corrective action expenses submitted for reimbursement
5 consist of items and amounts that are in accord and compliant with ~~Arkansas~~
6 ~~Department~~ Division of Environmental Quality regulations; and

7 (3) The owner or operator cooperated fully with the ~~department~~
8 division in corrective action to address the release.

9
10 SECTION 2821. Arkansas Code § 8-7-907(e)(2)(B), concerning payments
11 for corrective action from the Petroleum Storage Tank Trust Fund, is amended
12 to read as follows:

13 (B) Specific assurances must be provided that an approved
14 corrective action plan, ~~department~~ division directive, or order is being
15 implemented and followed to date; and

16
17 SECTION 2822. Arkansas Code § 8-7-907(f), concerning payments for
18 corrective action from the Petroleum Storage Tank Trust Fund, is amended to
19 read as follows:

20 (f)(1) In the event moneys are expended from the fund for corrective
21 action and the owner or operator was not at the time of the occurrence
22 eligible to receive reimbursement for corrective action, as defined by this
23 subchapter and regulations promulgated under this subchapter, the ~~department~~
24 division may recover from the owner or operator the amount of moneys expended
25 from the fund for corrective action by filing an action in the appropriate
26 circuit court or by using the administrative procedures set forth in § 8-7-
27 804.

28 (2)(A) The ~~department~~ division also has a right of subrogation:

29 (i) To any insurance policies in existence at the
30 time of the occurrence to the extent of any rights the owner or operator of a
31 site may have had under that policy; and

32 (ii) Against any third party who caused or
33 contributed to the occurrence.

34 (B) The right of subrogation shall apply to sites where
35 corrective action is taken by:

36 (i) Owners or operators; or

1 (ii) The ~~department~~ division.

2 (C) As used in this subsection, "third party" does not
3 include a former owner or operator of the site where corrective action is
4 taken.

5

6 SECTION 2823. Arkansas Code § 8-7-907(g)(2), concerning payments for
7 corrective action from the Petroleum Storage Tank Trust Fund, is amended to
8 read as follows:

9 (2) Eligibility for reimbursement of unknown petroleum storage
10 tanks will be conditioned on the payment of three hundred seventy-five
11 dollars (\$375) to the ~~department~~ division.

12

13 SECTION 2824. Arkansas Code § 8-7-907(h), concerning payments for
14 corrective action from the Petroleum Storage Tank Trust Fund, is amended to
15 read as follows:

16 (h) If the owner or operator is found to have been in noncompliance
17 with any state and federal laws and regulations relating to storage tanks at
18 the time of the occurrence, the ~~department~~ division may assess a penalty in
19 accordance with its applicable policies and procedures.

20

21 SECTION 2825. Arkansas Code § 8-7-907(i)(1), concerning payments for
22 corrective action from the Petroleum Storage Tank Trust Fund, is amended to
23 read as follows:

24 (i)(1) An owner or operator determined to be eligible for payment for
25 corrective action for a release from a qualified storage tank or the
26 ~~department~~ division may transfer the eligibility to a subsequent owner or
27 operator of the qualified storage tank if the ~~department~~ division determines
28 that the subsequent owner or operator has the financial and legal capacity to
29 complete the corrective action and the subsequent owner or operator agrees in
30 writing to assume responsibility for corrective action.

31

32 SECTION 2826. Arkansas Code § 8-7-907(j)(2), concerning payments for
33 corrective action from the Petroleum Storage Tank Trust Fund, is amended to
34 read as follows:

35 (2) If an owner or operator is performing corrective action to
36 the ~~department's~~ division's satisfaction, a lender or secured creditor is not

1 eligible to assume responsibility for corrective action or to receive payment
2 for corrective action.

3

4 SECTION 2827. Arkansas Code § 8-7-907(k)(2)(D), concerning payments
5 for corrective action from the Petroleum Storage Tank Trust Fund, is amended
6 to read as follows:

7 (D) Providing for reversion of equipment to the ~~department~~
8 division if the responsibility for the maintenance or payment for the
9 equipment is not met.

10

11 SECTION 2828. Arkansas Code § 8-7-908(a)(1)(A), concerning third-party
12 claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as
13 follows:

14 (A) The Director of the ~~Arkansas Department~~ Division of
15 Environmental Quality is using his or her emergency authority under § 8-7-
16 905(e); or

17

18 SECTION 2829. Arkansas Code § 8-7-908(d), concerning third-party
19 claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as
20 follows:

21 (d)(1)(A) Any owner or operator against whom a third-party claim is
22 filed in court or in the Arkansas State Claims Commission shall give written
23 notice of the claim to the ~~Arkansas Department~~ Division of Environmental
24 Quality no later than twenty (20) days after service of summons or receipt of
25 notification of the claim from the Arkansas State Claims Commission.

26 (B) As a condition of eligibility, an owner or operator
27 shall cooperate with and assist the ~~department~~ division and, if applicable,
28 the Attorney General's office in connection with the third-party claim.

29 (C) At a minimum, the cooperation shall include active
30 participation by the owner or operator throughout the litigation and
31 providing assistance as required by the ~~department~~ division or the Attorney
32 General's office during resolution of a third-party claim.

33 (D) In determining compliance with subdivisions (d)(1)(B)
34 and (C) of this section, the director shall consider the owner's or
35 operator's financial condition.

36 (2) Upon receipt of the notice, the ~~department~~ division shall

1 immediately notify the Attorney General, who shall have the right to
2 intervene in any such lawsuit or proceeding in order to protect the interests
3 of the state in the fund.

4 (3) Payment of third-party claims from the fund may be denied
5 for any owner or operator who fails to give the ~~department~~ division notice as
6 required in this subsection.

7
8 SECTION 2830. Arkansas Code § 8-7-908(f), concerning third-party
9 claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as
10 follows:

11 (f)(1) In the event moneys are expended from the fund for third-party
12 claims and the owner or operator was not at the time of the occurrence in
13 substantial compliance, as defined by this subchapter and regulations
14 promulgated under this subchapter, the ~~department~~ division may recover from
15 the owner or operator the amount of moneys expended from the fund for the
16 third-party claim by filing an action in the appropriate circuit court or by
17 using the administrative procedures set forth in § 8-7-804.

18 (2)(A) The ~~department~~ division also has a right of subrogation:
19 (i) To any insurance policies in existence at the
20 time of the occurrence to the extent of any rights the owner or operator of a
21 site may have had under that insurance policy; and

22 (ii) Against any third party who caused or
23 contributed to the occurrence.

24 (B) The right of subrogation shall apply to sites where
25 corrective action is taken by:

26 (i) Owners or operators; or
27 (ii) The ~~department~~ division.

28 (C) As used in this subsection, "third party" does not
29 include a former owner or operator of the site where corrective action is
30 taken.

31
32 SECTION 2831. Arkansas Code § 8-7-908(g)(2), concerning third-party
33 claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as
34 follows:

35 (2) Eligibility for reimbursement of unknown petroleum storage
36 tanks will be conditioned on the payment of three hundred seventy-five

1 dollars (\$375) to the ~~department~~ division.

2
3 SECTION 2832. Arkansas Code § 8-7-908(h)(1), concerning third-party
4 claims regarding the Petroleum Storage Tank Trust Fund, is amended to read as
5 follows:

6 (h)(1) An owner or operator determined to be eligible for payment for
7 third-party claims for a release may transfer the eligibility to an owner or
8 operator that acquires the storage tank if the ~~department~~ division determines
9 that the subsequent owner or operator has the financial and legal capacity
10 and has assumed in writing the responsibility for third-party liability.

11
12 SECTION 2833. Arkansas Code § 8-7-909 is amended to read as follows:
13 8-7-909. Confidential treatment of information.

14 (a) Any records, reports, or information obtained by the ~~Arkansas~~
15 ~~Department~~ Division of Environmental Quality, the Department of Energy and
16 Environment, or the division's or department's employees in the
17 administration of this subchapter, except release data, shall be kept
18 confidential upon a showing satisfactory to the Director of the ~~Arkansas~~
19 ~~Department~~ Division of Environmental Quality that the records, reports, or
20 information would constitute a trade secret under § 4-75-601 et seq.

21 (b) As necessary to carry out the provisions of this subchapter,
22 information afforded confidential treatment may be transmitted under a
23 continuing claim of confidentiality to other officers or employees of the
24 state or of the United States if the owner or operator of the facility to
25 which the information pertains is informed of the transmittal and if the
26 information has been acquired by the ~~department~~ division under the provisions
27 of this subchapter.

28 (c) The provisions of this section shall not be construed to limit the
29 ~~department's~~ division's authority to release confidential information during
30 emergency situations.

31 (d) Any violation of this section shall be unlawful and shall
32 constitute a misdemeanor.

33
34 SECTION 2834. Arkansas Code § 8-7-1101(4) and (5), concerning the
35 declaration of policy by the General Assembly for the redevelopment of
36 abandoned industrial, commercial, or agricultural sites or abandoned

1 residential property, are amended to read as follows:

2 (4) Incentives should be put in place to encourage prospective
3 purchasers to voluntarily develop and implement cleanup plans of abandoned
4 sites without the need for adversarial enforcement actions by the ~~Arkansas~~
5 ~~Department~~ Division of Environmental Quality;

6 (5) The ~~department~~ division now routinely determines, through
7 its permitting policies, when contamination will and will not pose
8 unacceptable risks to public health or the environment, and similar concepts
9 are used in establishing cleanup policies for abandoned sites;

10

11 SECTION 2835. Arkansas Code § 8-7-1102(a)(1), concerning the
12 definition of "abandoned site" under the laws about the voluntary cleanup of
13 hazardous waste, is amended to read as follows:

14 (1) "Abandoned site" means a site on which industrial,
15 commercial, or agricultural activity occurred and for which no responsible
16 person can reasonably be pursued for a remedial response to clean up the site
17 or residential property or when the ~~Arkansas Department~~ Division of
18 Environmental Quality determines it is in the best interest of the citizens
19 of Arkansas to promote redevelopment under this subchapter while continuing
20 to pursue the responsible party or parties;

21

22 SECTION 2836. Arkansas Code § 8-7-1102(a)(2), concerning the
23 definition of "implementing agreement" under the laws about the voluntary
24 cleanup of hazardous waste, is amended to read as follows:

25 (2) "Implementing agreement" means a plan, order, memorandum of
26 agreement, or other enforceable document issued by the ~~department~~ division
27 under provisions of the Arkansas Hazardous Waste Management Act of 1979, § 8-
28 7-201 et seq., the Remedial Action Trust Fund Act, § 8-7-501 et seq., or this
29 subchapter, to implement the voluntary cleanup process described in § 8-7-
30 1104;

31

32 SECTION 2837. The introductory language of Arkansas Code § 8-7-
33 1103(a), concerning the authority of the Arkansas Department of Environmental
34 Quality, is amended to read as follows:

35 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
36 have authority regarding a voluntary response program to provide the

1 following:

2

3 SECTION 2838. Arkansas Code § 8-7-1103(a)(6), concerning the authority
4 of the Arkansas Department of Environmental Quality, is amended to read as
5 follows:

6 (6)(A) A requirement for certification or similar documentation
7 from the ~~department~~ division to the person conducting the voluntary response
8 action indicating that the response is complete.

9 (B) This certification shall document any conditions,
10 restrictions, or limitations on the release from liability for contamination
11 existing at the site before the ~~department~~ division and the prospective
12 purchaser enter into an implementing agreement.

13

14 SECTION 2839. Arkansas Code § 8-7-1103(b), concerning the authority of
15 the Arkansas Department of Environmental Quality, is amended to read as
16 follows:

17 (b) The ~~department~~ division may establish and administer a revolving
18 loan fund to make secured and unsecured loans or grants to eligible
19 participants for the purpose of financing the assessment, investigation, or
20 remedial actions at abandoned industrial, commercial, or agricultural sites,
21 or at abandoned residential property.

22

23 SECTION 2840. Arkansas Code § 8-7-1104(c), concerning the voluntary
24 cleanup process, is amended to read as follows:

25 (c) Following completion of a comprehensive site assessment, the
26 ~~Arkansas Department~~ Division of Environmental Quality shall determine whether
27 the site assessment adequately identifies the environmental risks posed by
28 the abandoned site.

29

30 SECTION 2841. Arkansas Code § 8-7-1104(d)(4), concerning the voluntary
31 cleanup process, is amended to read as follows:

32 (4) The notice shall be subject to the approval of the
33 ~~department~~ division.

34

35 SECTION 2842. Arkansas Code § 8-7-1104(f)(1)(B), concerning the
36 voluntary cleanup process, is amended to read as follows:

1 (B) A purchaser may not actually use the property in a
2 manner which differs from the intended use identified in the implementing
3 agreement contemplated by subsection (d) of this section, unless the
4 ~~department~~ division and purchaser agree to a modification of the implementing
5 agreement; or

6
7 SECTION 2843. Arkansas Code § 8-7-1104(h)(1), concerning the voluntary
8 cleanup process, is amended to read as follows:

9 (h)(1) The selection of remedial action shall be approved by the
10 ~~department~~ division after reasonable notice and after opportunity for hearing
11 and shall become an amendment to the implementing agreement entered into
12 pursuant to subsection (d) of this section.

13
14 SECTION 2844. Arkansas Code § 8-7-1104(j), concerning the voluntary
15 cleanup process, is amended to read as follows:

16 (j) A prospective purchaser of an abandoned site under this subchapter
17 shall not be responsible for paying any fines or penalties levied against any
18 person responsible for contamination on the abandoned site prior to the
19 implementing agreement with the ~~department~~ division.

20
21 SECTION 2845. Arkansas Code § 8-7-1104(m), concerning the voluntary
22 cleanup process, is amended to read as follows:

23 (m) Upon written notice to the ~~department~~ division, the implementing
24 agreement, including all rights and cleanup liabilities entered into by the
25 ~~department~~ division and the prospective purchaser under subsection (d) of
26 this section, is transferable in its entirety to all subsequent owners of the
27 property who did not, by act or omission, cause or contribute to any release
28 or threatened release of hazardous substances on the abandoned site.

29
30 SECTION 2846. Arkansas Code § 8-7-1302 is amended to read as follows:
31 8-7-1302. Purpose.

32 It is the purpose of this subchapter to authorize the ~~Arkansas~~
33 ~~Department~~ Division of Environmental Quality to establish and administer a
34 certification program to maintain a list of Phase I consultants who meet the
35 minimum qualifications for an environmental professional who undertakes a
36 Phase I environmental site assessment, referred to as "all appropriate

1 inquiry” under the Small Business Liability Relief and Brownfields
2 Revitalization Act, Pub. L. No. 107-118, as it exists on January 1, 2007, or
3 a Phase I environmental site assessment under the American Society for
4 Testing and Materials standard E1527-05 as in effect on January 1, 2007.
5

6 SECTION 2847. Arkansas Code § 8-7-1311(a)(1), concerning fees paid to
7 the Hazardous Waste Permit Fund of the Arkansas Pollution Control and Ecology
8 Commission, is amended to read as follows:

9 (a)(1) Under regulations promulgated by the Arkansas Pollution Control
10 and Ecology Commission, the ~~Arkansas Department~~ Division of Environmental
11 Quality may assess fees to Phase I consultants who apply to be placed on the
12 list maintained under § 8-7-1304.
13

14 SECTION 2848. The introductory language of Arkansas Code § 8-7-
15 1402(a), concerning professional cleanup of properties contaminated through
16 the manufacture of controlled substances, is amended to read as follows:

17 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall:
18

19 SECTION 2849. Arkansas Code § 8-7-1402(a)(4)(A) and (B), concerning
20 professional cleanup of properties contaminated through the manufacture of
21 controlled substances, are amended to read as follows:

22 (A) On the ~~department's~~ division's website; and

23 (B) In hard copy upon request to the ~~department~~ division;

24 and
25

26 SECTION 2850. Arkansas Code § 8-7-1403(b), concerning the reporting of
27 properties contaminated through the manufacture of controlled substances, is
28 amended to read as follows:

29 (b)(1) If a property owner finds or becomes aware of evidence of a
30 laboratory for the manufacture of controlled substances on his or her
31 property, the property owner shall have the property inspected in accordance
32 with the guidelines established by the ~~Arkansas Department~~ Division of
33 Environmental Quality under this subchapter by a contractor certified by the
34 ~~department~~ division under § 8-7-1402.

35 (2) If the contractor selected by the property owner under
36 subdivision (b)(1) of this section verifies that a laboratory for the

1 manufacture of controlled substances has been on the property, the contractor
2 shall notify the ~~department~~ division, and the ~~department~~ division shall place
3 the property on the contaminated properties list required under § 8-7-1404.
4

5 SECTION 2851. Arkansas Code § 8-7-1404(a), concerning the required
6 recordkeeping by the Arkansas Department of Environmental Quality, is amended
7 to read as follows:

8 (a) ~~By May 1, 2008, the Arkansas Department~~ The Division of
9 Environmental Quality shall maintain records concerning properties
10 contaminated through the manufacture of controlled substances.
11

12 SECTION 2852. The introductory language of the Arkansas Code § 8-7-
13 1404(b), concerning the required recordkeeping by the Arkansas Department of
14 Environmental Quality, is amended to read as follows:

15 (b) The ~~department~~ division shall:
16

17 SECTION 2853. Arkansas Code § 8-7-1404(b)(3)(B), concerning the
18 required recordkeeping by the Arkansas Department of Environmental Quality,
19 is amended to read as follows:

20 (B) The property has met the remediation standards
21 developed by the ~~department~~ division;
22

23 SECTION 2854. Arkansas Code § 8-7-1404(b)(4) and (5), concerning the
24 required recordkeeping by the Arkansas Department of Environmental Quality,
25 are amended to read as follows:

26 (4)(A) Post the results of a cleanup on the ~~department's~~
27 division's website for ten (10) working days after the ~~department~~ division
28 determines that the property has been adequately remediated.

29 (B) After the ten (10) working days of posting required
30 under subdivision (b)(4)(A) of this section, the ~~department~~ division shall
31 remove from the ~~department's~~ division's website the formerly contaminated
32 property and the results of the cleanup; and

33 (5) Remove a property from the list when the ~~department~~ division
34 finds that the property has been adequately remediated.
35

36 SECTION 2855. Arkansas Code § 8-7-1404(c), concerning the required

1 recordkeeping by the Arkansas Department of Environmental Quality, are
2 amended to read as follows:

3 (c)(1) The ~~department~~ division shall make the list of properties
4 contaminated through the manufacture of controlled substances available to
5 law enforcement officials and to the public:

6 (A) On the ~~department's~~ division's website; and

7 (B) In hard copy upon request to the ~~department~~ division.

8 (2) The ~~department~~ division shall keep hard copies of the
9 information required under this section until the ~~department~~ division has
10 removed the property from the list of properties contaminated through the
11 manufacture of controlled substances.

12

13 SECTION 2856. Arkansas Code § 8-7-1405(b)(3), concerning the notice of
14 cleanup and residual contamination, is amended to read as follows:

15 (3) The ~~Arkansas Department~~ Division of Environmental Quality
16 shall cooperate with the Arkansas Crime Information Center to create a
17 computer link that will allow the center to transfer to the ~~department~~
18 division information from the National Clandestine Laboratory Seizure Report
19 required under 28 C.F.R. Part 23 that is relevant to the notice of removal
20 required under subsection (d) of this section.

21

22 SECTION 2857. Arkansas Code § 8-7-1405(d)(7)(D)(i), concerning the
23 notice of cleanup and residual contamination, is amended to read as follows:

24 (D)(i) It is unlawful for any unauthorized person to enter
25 a residually contaminated property or, in the case of a space-rental mobile
26 home or recreational vehicle park, the unit located on the property until the
27 ~~department~~ division establishes that the portion of the property identified
28 as residually contaminated has been properly remediated.

29

30 SECTION 2858. Arkansas Code § 8-7-1405(d)(7)(D)(ii)(a), concerning the
31 notice of cleanup and residual contamination, is amended to read as follows:

32 (a) An employee of the ~~department~~ division;

33

34 SECTION 2859. Arkansas Code § 8-7-1405(d)(7)(E)-(G), concerning the
35 notice of cleanup and residual contamination, are amended to read as follows:

36 (E) Failure to comply with this section is a violation of

1 the ~~department's~~ division's rules pertaining to the cleanup of laboratories
2 for the manufacture of controlled substances;

3 (F) Disturbing the notice of removal posted on the
4 property is a violation of the ~~department's~~ division's rules concerning the
5 cleanup of laboratories for the manufacture of controlled substances; and

6 (G) The owner of the property is responsible for
7 remediating the residually contaminated portion of the property in compliance
8 with the ~~department's~~ division's rules concerning the cleanup of laboratories
9 for the manufacture of controlled substances.

10
11 SECTION 2860. Arkansas Code § 8-7-1406 is amended to read as follows:
12 8-7-1406. Remediated property.

13 (a) After property contaminated through the manufacture of controlled
14 substances is remediated and the property owner receives official
15 notification from the ~~Arkansas Department~~ Division of Environmental Quality,
16 no person, including the property owner, landlord, and real estate agent, is
17 required to report or otherwise disclose the past contamination.

18 (b) Unless retention is mandated by federal law, the ~~department~~
19 division shall destroy all copies of information required to be kept under
20 this subchapter that refer to a specific property location once the property
21 is officially removed from the contaminated properties list.

22
23 SECTION 2861. Arkansas Code § 8-9-101 is amended to read as follows:
24 8-9-101. Policy.

25 It is the policy of the State of Arkansas to encourage and promote
26 recycling in order to conserve natural resources, conserve energy, and
27 preserve landfill space. In furtherance of this policy, the State of Arkansas
28 adopts as a goal in the new century the recycling of forty percent (40%) of
29 its municipal solid waste by 2005 and forty-five percent (45%) of its
30 municipal solid waste by 2010, as shall be determined by the Arkansas
31 Department of Environmental Quality or the Division of Environmental Quality
32 by regulation.

33
34 SECTION 2862. Arkansas Code § 8-9-104(2), concerning the definition of
35 "department" under the laws governing recycling, is repealed.

36 (2) ~~"Department" means the Arkansas Department of Environmental~~

1 ~~Quality;~~

2

3 SECTION 2863. Arkansas Code § 8-9-104(3)(A), concerning the definition
4 of "materials in the recycling process" under the laws governing recycling,
5 is amended to read as follows:

6 (A) Those materials are processed or handled using
7 reasonably available processing equipment and control technology, as
8 determined by the Director of the ~~Arkansas Department~~ Division of
9 Environmental Quality, taking cost into account; and

10

11 SECTION 2864. Arkansas Code § 8-9-202 is amended to read as follows:
12 8-9-202. Powers and duties of the ~~department~~ division.

13 The ~~Arkansas Department~~ Division of Environmental Quality shall have
14 the power and duty to:

15 (1) Adopt reasonable rules and regulations to effectuate the
16 purposes of this subchapter;

17 (2) Promote public education and public awareness of the
18 necessity of supporting waste reduction and recyclable material recovery as
19 an integral part of all solid waste and recyclable materials programs in the
20 state; and

21 (3) Provide, to the extent practicable, upon request, to state
22 agencies, planning and technical assistance in carrying out their
23 responsibilities under this subchapter.

24

25 SECTION 2865. The introductory language of Arkansas Code § 8-9-203(a),
26 concerning recycling by governmental entities, is amended to read as follows:

27 (a) Each state agency, state college or university, county, city, and
28 public school, in cooperation with the ~~Arkansas Department~~ Division of
29 Environmental Quality and the Compliance Advisory Panel shall:

30

31 SECTION 2866. Arkansas Code § 8-9-302(b), concerning plastic container
32 labeling, is amended to read as follows:

33 (b) The ~~Arkansas Department~~ Division of Environmental Quality shall
34 maintain a list of the label codes provided pursuant to this section and
35 shall provide a copy of that list to any person upon request.

36

1 SECTION 2867. Arkansas Code § 8-9-303(c) and (d), concerning lead-acid
2 batteries, are amended to read as follows:

3 (c) The ~~Arkansas Department~~ Division of Environmental Quality shall
4 produce, print, and distribute the notices required by this section to all
5 places where lead-acid batteries are offered for sale at retail.

6 (d) In performing its duties under this section, the ~~department~~
7 division may inspect any place, building, or premises governed by this
8 section.

9
10 SECTION 2868. Arkansas Code § 8-9-401(b)(2), concerning title,
11 legislative intent, and findings under the Used Tire Recycling and
12 Accountability Act, is amended to read as follows:

13 (2) Provide accountability and sustainability for used tire
14 programs by requiring use of the electronic uniform used tire manifest system
15 developed by the ~~Arkansas Department~~ Division of Environmental Quality and
16 business plans for used tire programs;

17
18 SECTION 2869. The introductory language of Arkansas Code § 8-9-402(3),
19 concerning the definition of "electronic uniform used tire manifest system"
20 under the Used Tire Recycling and Accountability Act, is amended to read as
21 follows:

22 (3) "Electronic uniform used tire manifest system" means an
23 administrative method developed by the ~~Arkansas Department~~ Division of
24 Environmental Quality that:

25
26 SECTION 2870. Arkansas Code § 8-9-402(9), concerning the definition of
27 "qualified entity" under the Used Tire Recycling and Accountability Act, is
28 amended to read as follows:

29 (9) "Qualified entity" means an entity that demonstrates to the
30 ~~department~~ division that the entity has the capability, experience, and
31 resources to operate and administer a used tire program in compliance with
32 this subchapter;

33
34 SECTION 2871. Arkansas Code § 8-9-402(25)(B)(ii), concerning the
35 definition of "qualified entity" under the Used Tire Recycling and
36 Accountability Act, is amended to read as follows:

1 (ii) A location that is authorized to store tires by
2 the ~~department~~ division or regulations promulgated by the Arkansas Pollution
3 Control and Ecology Commission;

4
5 SECTION 2872. The introductory language of Arkansas Code § 8-9-
6 403(a)(1), concerning requirements, prohibited activities, and operation of
7 waste tire sites, is amended to read as follows:

8 (a)(1) The owner or operator of any waste tire site shall provide the
9 ~~Arkansas Department~~ Division of Environmental Quality and the applicable
10 regional solid waste management district with:

11
12 SECTION 2873. Arkansas Code § 8-9-403(a)(1)(B), concerning
13 requirements, prohibited activities, and operation of waste tire sites, is
14 amended to read as follows:

15 (B) A written plan specifying a method and time schedule,
16 subject to approval by the ~~department~~ division, for the removal, disposal, or
17 recycling of the tires.

18
19 SECTION 2874. Arkansas Code § 8-9-403(a)(2), concerning requirements,
20 prohibited activities, and operation of waste tire sites, is amended to read
21 as follows:

22 (2) The owner or operator shall implement a written plan
23 approved by the ~~department~~ division according to the written plan's schedule.

24
25 SECTION 2875. Arkansas Code § 8-9-403(c)(3)(C)(i), concerning
26 requirements, prohibited activities, and operation of waste tire sites, is
27 amended to read as follows:

28 (i) Authorized by the ~~department~~ division;

29
30 SECTION 2876. Arkansas Code § 8-9-403(e)(2), concerning requirements,
31 prohibited activities, and operation of waste tire sites, is amended to read
32 as follows:

33 (2) Records of the disposition of the waste tires originating
34 from a tire manufacturer shall be maintained by that tire manufacturer for a
35 period of at least three (3) years and shall be available for review by the
36 ~~department~~ division.

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SECTION 2877. Arkansas Code § 8-9-404(a)(5)(A), concerning rim removal fees, is amended to read as follows:

(5)(A) The rim removal fees imposed under this section shall be paid monthly to the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 2878. Arkansas Code § 8-9-404(a)(6), concerning rim removal fees, is amended to read as follows:

(6)(A) The rim removal fees remitted under subdivision (a)(5)(A) of this section shall be collected by the ~~director~~ secretary and shall be subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(B)(i) Each tire retailer shall file a return with the ~~director~~ secretary on or before the twentieth of each month.

(ii) The return shall show the total rim removal fees collected for each tire removed from the rim during the preceding calendar month.

(iii) The tire retailer shall remit the rim removal fees with the return.

(iv) The ~~director~~ secretary shall prescribe the form and contents of the return.

SECTION 2879. Arkansas Code § 8-9-404(b)(1)(B), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

(B) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

SECTION 2880. Arkansas Code § 8-9-404(c)(3)(A)(ii), concerning rim removal fees, import fees, and commercial generator fees, is amended to read as follows:

(ii) Seven percent (7%) to be deposited into the ~~Arkansas Department~~ Division of Environmental Quality Fee Trust Fund.

SECTION 2881. Arkansas Code § 8-9-404(d)(5)(A), concerning commercial generator fees, is amended to read as follows:

1 (5)(A) The commercial generator fees imposed under this section
2 shall be paid monthly to the ~~director~~ secretary.

3
4 SECTION 2882. Arkansas Code § 8-9-404(d)(6)(A), concerning commercial
5 generator fees, is amended to read as follows:

6 (6)(A) The commercial generator fees remitted in subdivision
7 (d)(5)(A) of this section shall be collected by the ~~director~~ secretary and
8 shall be subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq.

9 (B)(i)(a) Each commercial generator shall file a return
10 with the ~~director~~ secretary on or before the twentieth of each month.

11 (b) The return shall show the total commercial
12 generator fees collected for each tire sold or delivered to the end user
13 during the preceding calendar month.

14 (c) The commercial generator shall remit the
15 commercial generator fees with the return.

16 (ii) The ~~director~~ secretary shall prescribe the form
17 and contents of the return.

18
19 SECTION 2883. Arkansas Code § 8-9-404(d)(7)(B), concerning rim removal
20 fees, import fees, and commercial generator fees, is amended to read as
21 follows:

22 (B) Seven percent (7%) to be deposited into the ~~Arkansas~~
23 ~~Department~~ Division of Environmental Quality Fee Trust Fund.

24
25 SECTION 2884. The introductory language of Arkansas Code § 8-9-405(a),
26 concerning used tire program reimbursements, is amended to read as follows:

27 (a) ~~By January 1, 2018, the Arkansas Department~~ The Division of
28 Environmental Quality shall establish the Used Tire Recycling and
29 Accountability Program to:

30
31 SECTION 2885. Arkansas Code § 8-9-405(b)(7) and (8), concerning used
32 tire program reimbursements, are amended to read as follows:

33 (7) Provide the ~~department~~ division with business plan
34 information required under § 8-9-408;

35 (8) Provide the ~~department~~ division with all quarterly financial
36 information and progress reports related to § 8-9-409;

1
2 SECTION 2886. Arkansas Code § 8-9-405(c)(1), concerning used tire
3 program reimbursements, is amended to read as follows:

4 (1) Contract with a tire processing facility that is approved by
5 the Director of the ~~Arkansas Department~~ Division of Environmental Quality;

6
7 SECTION 2887. The introductory language of Arkansas Code § 8-9-405(d),
8 concerning used tire program reimbursements, is amended to read as follows:

9 (d) Moneys disbursed from the Used Tire Recycling Fund by the
10 ~~department~~ division for reimbursements under this section shall be:

11
12 SECTION 2888. Arkansas Code § 8-9-405(e)(2), concerning used tire
13 program reimbursements, is amended to read as follows:

14 (2) If there are insufficient moneys available in a quarter to
15 make reimbursements for all submitted requests under any funding level under
16 subsection (f) of this section, the ~~department~~ division shall calculate the
17 total remaining funding available for the funding level and allocate the
18 moneys available for reimbursement to each used tire program based on a pro
19 rata share of each used tire program's reimbursement request compared to the
20 total moneys available for that funding level.

21
22 SECTION 2889. Arkansas Code § 8-9-405(g), concerning used tire program
23 reimbursements, is amended to read as follows:

24 (g) At the request of a used tire program that needs operational
25 assistance or guidance on compliance with this subchapter, the ~~department~~
26 division shall provide to the used tire program operational assistance or
27 guidance on compliance with this subchapter.

28
29 SECTION 2890. The introductory language of Arkansas Code § 8-9-405(h),
30 concerning used tire program reimbursements, is amended to read as follows:

31 (h) The ~~department~~ division shall:

32
33 SECTION 2891. Arkansas Code § 8-9-408(a), concerning accountability
34 requirements for used tire programs, is amended to read as follows:

35 (a) On or before December 31, 2017, a used tire program that receives
36 funding under this subchapter shall provide the Arkansas Department of

1 Environmental Quality, now the Division of Environmental Quality, with a
2 business plan that establishes its current operating plan and a proposed
3 operating plan for calendar year 2018 and approved by its board.
4

5 SECTION 2892. Arkansas Code § 8-9-408(c)-(e), concerning
6 accountability requirements for used tire programs, are amended to read as
7 follows:

8 (c) A used tire program shall submit a revised business plan if there
9 is a substantial change in the used tire program operations or if the
10 ~~department~~ division requests a revised business plan.

11 (d) A business plan or revised business plan submitted under this
12 subchapter is effective after approval by the ~~department~~ division or its
13 designee.

14 (e)(1) The approved business plan or approved revised business plan
15 shall include the approved business plan rates for each used tire program.

16 (2)(A) The ~~department~~ division shall cooperate with the used
17 tire programs and other entities to develop each used tire program's approved
18 business plan rates for recyclable tires and waste tires.

19 (B) The approved business plan rates shall also use the
20 size of a tire, including without limitation small tires, large tires, and
21 extra-large tires, as a factor for determining the approved business plan
22 rates.
23

24 SECTION 2893. Arkansas Code § 8-9-409(a), concerning the performance
25 and efficiency evaluations for the used tire programs and the Used Tire
26 Recycling and Accountability Program, is amended to read as follows:

27 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
28 develop a system to evaluate and report the performance and efficiency of
29 used tire programs and the Used Tire Recycling and Accountability Program.
30

31 SECTION 2894. Arkansas Code § 8-9-411(a)(2), concerning tire
32 transporters' licenses, is amended to read as follows:

33 (2) Obtain for each vehicle a tire transporter number provided
34 by the ~~Arkansas Department~~ Division of Environmental Quality used for the
35 electronic uniform used tire manifest system;
36

1 SECTION 2895. Arkansas Code § 8-9-411(b), concerning tire
2 transporters' licenses, is amended to read as follows:

3 (b) For each tire transporter licensed under this section, the
4 ~~department~~ division shall assign a tire transporter number and include the
5 tire transporter information in the electronic uniform used tire manifest
6 system.

7
8 SECTION 2896. Arkansas Code § 8-9-415(b)(6), concerning permitting,
9 licensing, inspections, procedures, enforcement, and penalties for a person
10 who receives funding regarding tire collection and disposal, is amended to
11 read as follows:

12 (6) Failure to provide documentation or reports required to be
13 filed with the ~~Arkansas Department~~ Division of Environmental Quality under
14 this subchapter.

15
16 SECTION 2897. The introductory language of Arkansas Code § 8-9-
17 415(c)(1), concerning permitting, licensing, inspections, procedures,
18 enforcement, and penalties for a person who receives funding regarding tire
19 collection and disposal, is amended to read as follows:

20 (c)(1) If a used tire program fails to submit a business plan that is
21 approved by the ~~department~~ Arkansas Department of Environmental Quality or
22 the Division of Environmental Quality on or before July 1, 2018, the used
23 tire program and all regional solid waste management boards included in the
24 used tire program on July 1, 2018, are:

25
26 SECTION 2898. Arkansas Code § 8-9-415(c)(2)(A), concerning permitting,
27 licensing, inspections, procedures, enforcement, and penalties for a person
28 who receives funding regarding tire collection and disposal, is amended to
29 read as follows:

30 (2)(A) The ~~department~~ division may designate a qualified entity
31 to perform the duties related to the operation and administration of a used
32 tire program deemed ineligible under subdivision (c)(1) of this section.

33
34 SECTION 2899. Arkansas Code § 8-9-502, concerning members of the
35 Arkansas Newspaper Recycling Advisory Committee, is amended to read as
36 follows:

1 8-9-502. Members.

2 The Director of the ~~Arkansas Department~~ Division of Environmental
3 Quality shall appoint the Arkansas Newspaper Recycling Advisory Committee
4 consisting of:

5 (1) The Chief of the Marketing Division of the ~~Arkansas~~
6 ~~Department~~ Division of Environmental Quality or his or her designee;

7 (2) The Executive Director of the Arkansas Press Association,
8 Inc. or his or her designee; and

9 (3)(A) At least six (6) members representing the Arkansas
10 newspaper industry and newsprint manufacturers doing business in Arkansas.

11 (B) Provided, however, these members shall be selected
12 from a list of names of potential members to be provided by the President of
13 the Board of Directors of the Arkansas Press Association, Inc.

14

15 SECTION 2900. Arkansas Code § 8-9-603(2) and (3), concerning the
16 definitions of "department" and "director" under the Mercury Switch Removal
17 Act of 2005, are repealed.

18 ~~(2) "Department" means the Arkansas Department of Environmental~~
19 ~~Quality;~~

20 ~~(3) "Director" means the Director of the Arkansas Department of~~
21 ~~Environmental Quality;~~

22

23 SECTION 2901. Arkansas Code § 8-9-604(a), concerning the mercury
24 minimization plan, is amended to read as follows:

25 (a) Within ninety (90) days after August 12, 2005, every manufacturer
26 of vehicles sold within this state, individually or as part of a group, shall
27 develop in consultation with the Arkansas Department of Environmental
28 Quality, now the Division of Environmental Quality, a mercury minimization
29 plan prepared pursuant to this section and shall submit the mercury
30 minimization plan to the Director of the Arkansas Department of Environmental
31 Quality, now the Director of the Division of Environmental Quality, for
32 review and approval pursuant to § 8-9-605.

33

34 SECTION 2902. Arkansas Code § 8-9-605(a)(1), concerning approval and
35 implementation of the mercury minimization plan, is amended to read as
36 follows:

1 (a)(1) Within one hundred twenty (120) days after receipt of a mercury
2 minimization plan, the Director of the Arkansas Department of Environmental
3 Quality, now the Director of the Division of Environmental Quality, shall
4 approve, disapprove, or conditionally approve the entire mercury minimization
5 plan. The director may solicit input from representatives of vehicle
6 recyclers, scrap recycling facilities, and other stakeholders as the director
7 deems appropriate.

8
9 SECTION 2903. Arkansas Code § 8-9-606(c)(2), concerning the removal
10 and proper management of mercury-added vehicle components, is amended to read
11 as follows:

12 (2) These records shall be made available for review by the
13 ~~Arkansas Department~~ Division of Environmental Quality upon the request of the
14 ~~department~~ division.

15
16 SECTION 2904. Arkansas Code § 8-9-606(e)(2), concerning the removal
17 and proper management of mercury-added vehicle components, is amended to read
18 as follows:

19 (2) Provisions of the rules and regulations concerning universal
20 waste adopted by the ~~department~~ division pursuant to the Arkansas Hazardous
21 Waste Management Act of 1979, § 8-7-201 et seq.

22
23 SECTION 2905. The introductory language of Arkansas Code § 8-9-607(a),
24 concerning annual reporting on a mercury minimization plan, is amended to
25 read as follows:

26 (a) One (1) year after the implementation of a mercury minimization
27 plan approved pursuant to § 8-9-605, and annually thereafter, a manufacturer
28 subject to § 8-9-604 shall report individually or as part of a group to the
29 Director of the ~~Arkansas Department~~ Division of Environmental Quality
30 concerning the implementation of the mercury minimization plan. The report
31 shall include, but need not be limited to, the following:

32
33 SECTION 2906. The introductory language of Arkansas Code § 8-9-608(a),
34 concerning design for recycling regarding the mercury minimization plan, is
35 amended to read as follows:

36 (a) One (1) year after the implementation of a mercury minimization

1 plan approved pursuant to § 8-9-605, and annually thereafter, a manufacturer
2 subject to § 8-9-604 shall report individually or as part of a group to the
3 Director of the ~~Arkansas Department~~ Division of Environmental Quality
4 concerning the steps being taken by manufacturers to design vehicles and
5 their components for recycling. The report shall include, but need not be
6 limited to, the following:

7
8 SECTION 2907. Arkansas Code § 8-9-608(b), concerning design for
9 recycling regarding the mercury minimization plan, is amended to read as
10 follows:

11 (b) The ~~Arkansas Department~~ Division of Environmental Quality may
12 conduct hearings from time to time as the director deems appropriate to
13 evaluate the steps manufacturers are taking to design for recycling and to
14 recommend additional legislative action as may be appropriate in order to
15 promote vehicle recycling for the purposes of the preservation of scarce
16 resources and the safe and efficient reduction of solid waste.

17
18 SECTION 2908. Arkansas Code § 8-9-609 is amended to read as follows:
19 8-9-609. Rules and regulations – Authority of Arkansas Pollution
20 Control and Ecology Commission.

21 The Arkansas Pollution Control and Ecology Commission may adopt rules
22 and regulations to effectuate and implement the purposes and intent of this
23 subchapter and the powers and duties of the ~~Arkansas Department~~ Division of
24 Environmental Quality.

25
26 SECTION 2909. Arkansas Code § 8-10-302(a)(2)(C)(iii), concerning the
27 construction of a motor vehicle racing facility and the requirement of a
28 petition, is amended to read as follows:

29 (iii) It shall be the duty of the county clerk or
30 city clerk, as the case may be, to determine the sufficiency of the
31 signatures and to certify the sufficiency or insufficiency of the signatures
32 in writing to the ~~Arkansas Department~~ Division of Environmental Quality.

33
34 SECTION 2910. Arkansas Code § 8-10-303(a)(1)(A), concerning a permit
35 requirement to construct a motor vehicle racing facility, is amended to read
36 as follows:

1 (a)(1)(A) Due to the noise pollution and air pollution from the racing
2 vehicles and traffic congestion caused by motor vehicle racing facilities, no
3 motor vehicle racing facility shall be constructed in this state after
4 passage of this section without the consent of at least seventy-five percent
5 (75%) of the property owners and seventy-five percent (75%) of the registered
6 voters within three (3) miles of the outside boundary of the proposed motor
7 vehicle racing facility and without an annual permit issued by the ~~Arkansas~~
8 ~~Department~~ Division of Environmental Quality.

9
10 SECTION 2911. Arkansas Code § 8-10-303(a)(2)(C)(iii), concerning a
11 permit requirement to construct a motor vehicle racing facility, is amended
12 to read as follows:

13 (iii) It shall be the duty of the county clerk or
14 city clerk, as the case may be, to determine the sufficiency of the
15 signatures and to certify the sufficiency or insufficiency of the signatures
16 in writing to the ~~department~~ division.

17
18 SECTION 2912. Arkansas Code § 8-10-303(a)(3)(A)(i), concerning a
19 permit requirement to construct a motor vehicle racing facility, is amended
20 to read as follows:

21 (3)(A)(i) Once the sufficiency of the petitions is determined,
22 the persons or entity proposing and constructing a motor vehicle racing
23 facility after August 1, 1997, shall seek the approval of and issuance of an
24 annual permit from the ~~department~~ division. The ~~department's~~ division's
25 approval shall be sought by filing a permit application with the ~~department~~
26 division.

27
28 SECTION 2913. Arkansas Code § 8-10-303(a)(3)(A)(ii)(e), concerning a
29 permit requirement to construct a motor vehicle racing facility, is amended
30 to read as follows:

31 (e) Any other relevant permit information as
32 may be determined necessary for the permit application by the ~~department~~
33 division.

34
35 SECTION 2914. Arkansas Code § 8-10-303(a)(3)(B)-(D), concerning a
36 permit requirement to construct a motor vehicle racing facility, are amended

1 to read as follows:

2 (B) For the initial permit application for new motor
3 vehicle racing facilities to be constructed, the ~~department~~ division shall
4 conduct a public hearing on the proposed motor vehicle racing facility. The
5 ~~department~~ division shall set a date for the public hearing to be held on the
6 proposed motor vehicle racing facility permit which shall not be less than
7 thirty (30) days after the filing of the initial permit application. The
8 hearing under this subdivision (a)(3)(B) for the initial permit may be
9 adjourned and continued if necessary. In its discretion, the ~~department~~
10 division may hold public hearings for the renewal of any permits as is
11 necessary. Any interested persons may appear and contest the granting of the
12 approval or renewal of the motor vehicle racing facility permit. Affidavits
13 in support of or against the proposed motor vehicle racing facility or a
14 permit renewal, which may be prepared and submitted, shall be examined by the
15 ~~department~~ division.

16 (C) After the hearing for the initial permit or upon
17 application for the renewal of its annual permit, if the ~~department~~ division
18 shall be satisfied that the benefits of the motor vehicle racing facility are
19 sustained by proof and outweigh its impact by the noise, air pollution, and
20 traffic congestion caused by motor vehicle racing facilities, then the
21 ~~department~~ division shall grant the initial permit approving the proposed
22 motor vehicle racing facility or shall renew approval to the permitted or
23 existing motor vehicle racing facility. Renewal of an annual permit may also
24 be denied if:

25 (i) The motor vehicle racing facility is determined
26 to be in violation of any standards under which the permit was issued;

27 (ii) The motor vehicle racing facility is
28 constructed or is being operated in a manner that is materially different
29 than was represented during the petition process; or

30 (iii) Fraud, misrepresentation, or false statement
31 of facts was used to obtain signatures for the petition process.

32 (D) If any material changes, additions, or improvements
33 are made to the motor vehicle racing facility, the permit shall be amended
34 accordingly, and the ~~department~~ division may reconsider the approval of the
35 permit.

36

1 SECTION 2915. Arkansas Code § 8-10-304(b)(1)(A), concerning motor
2 vehicle racing facilities in certain municipalities, is amended to read as
3 follows:

4 (b)(1)(A) A person or entity proposing and constructing a motor
5 vehicle racing facility under subsection (a) of this section shall seek the
6 approval of and issuance of an annual permit from the ~~Arkansas Department~~
7 Division of Environmental Quality.

8
9 SECTION 2916. The introductory language of Arkansas Code § 8-10-
10 304(b)(1)(B), concerning motor vehicle racing facilities in certain
11 municipalities, is amended to read as follows:

12 (B) The ~~department's~~ division's approval shall be sought
13 by filing a permit application with the ~~department~~ division, which shall
14 contain a written proposal for the motor vehicle racing facility containing
15 the substance of the proposed facility, including:

16
17 SECTION 2917. Arkansas Code § 8-10-304(b)(1)(B)(v), concerning motor
18 vehicle racing facilities in certain municipalities, is amended to read as
19 follows:

20 (v) Any other relevant permit information as may be
21 determined necessary for the permit application by the ~~department~~ division.

22
23 SECTION 2918. Arkansas Code § 8-10-304(b)(2)(A)(i) and (ii),
24 concerning motor vehicle racing facilities in certain municipalities, are
25 amended to read as follows:

26 (2)(A)(i) For the initial permit application for new motor
27 vehicle racing facilities to be constructed, the ~~department~~ division shall
28 conduct a public hearing on the proposed motor vehicle racing facility.

29 (ii) The ~~department~~ division shall set a date for
30 the public hearing to be held on the proposed motor vehicle racing facility
31 permit which shall not be fewer than thirty (30) days after the filing of the
32 initial permit application.

33
34 SECTION 2919. Arkansas Code § 8-10-304(b)(2)(B), concerning motor
35 vehicle racing facilities in certain municipalities, is amended to read as
36 follows:

1 (B)(i) The ~~department~~ division, in its discretion, may
2 hold public hearings for the renewal of any permits as is necessary.

3 (ii) Any interested persons may appear and contest
4 the granting of the approval or renewal of the motor vehicle racing facility
5 permit.

6 (iii) Affidavits in support of or against the
7 proposed motor vehicle racing facility or a permit renewal, which may be
8 prepared and submitted, shall be examined by the ~~department~~ division.

9
10 SECTION 2920. Arkansas Code § 8-10-304(b)(3), concerning motor vehicle
11 racing facilities in certain municipalities, is amended to read as follows:

12 (3) After the hearing for the initial permit or upon application
13 for the renewal of its annual permit, if the ~~department~~ division is satisfied
14 that the benefits of the motor vehicle racing facility are sustained by proof
15 and outweigh its impact by the noise, air pollution, and traffic congestion
16 caused by motor vehicle racing facilities, then the ~~department~~ division shall
17 grant the initial permit approving the proposed motor vehicle racing facility
18 or shall renew approval to the permitted or existing motor vehicle racing
19 facility.

20
21 SECTION 2921. Arkansas Code § 8-10-304(b)(5), concerning motor vehicle
22 racing facilities in certain municipalities, is amended to read as follows:

23 (5) If any material changes, additions, or improvements are made
24 to the motor vehicle racing facility, the permit shall be amended
25 accordingly, and the ~~department~~ division may reconsider the approval of the
26 permit.

27
28 SECTION 2922. Arkansas Code § 8-11-103(a)(1), concerning the
29 regulatory flexibility of the Arkansas Department of Environmental Quality,
30 is amended to read as follows:

31 (a)(1) The ~~Arkansas Department~~ Division of Environmental Quality, by
32 order of the Director of the ~~Arkansas Department~~ Division of Environmental
33 Quality consistent with the purposes of this chapter, may approve requests
34 which allow an applicant to use alternative methods to comply with an
35 Arkansas Pollution Control and Ecology Commission rule regarding the control
36 or abatement of pollution.

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SECTION 2923. Arkansas Code § 8-11-103(d), concerning the regulatory flexibility of the Arkansas Department of Environmental Quality, is amended to read as follows:

(d) The ~~department~~ division may establish a reasonable fee for applications under this section.

SECTION 2924. Arkansas Code § 8-12-104(b)(4), concerning the creation of the Natural Resources Damages Advisory Board, is amended to read as follows:

(4) One (1) member shall be a representative from the ~~Arkansas Department~~ Division of Environmental Quality;

SECTION 2925. Arkansas Code § 8-13-101(2), concerning the purpose of a management organization for the Arkansas Department of Environmental Quality, is amended to read as follows:

(2) Environmental protection and improvement could be enhanced by authorizing the Director of the ~~Arkansas Department~~ Division of Environmental Quality to design and establish a management organization which incorporates specific goals for environmental protection and uses environmental indicators to measure agency performance; and

SECTION 2926. Arkansas Code § 8-13-101(3)(B), concerning the purpose of a management organization for the Arkansas Department of Environmental Quality, is amended to read as follows:

(B) Organizes the ~~Arkansas Department~~ Division of Environmental Quality according to business function;

SECTION 2927. Arkansas Code § 8-13-102(a), concerning the authority of the Director of the Arkansas Department of Environmental Quality to adopt an alternative organizational structure, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Environmental Quality, with the advice and consent of the ~~Governor~~ Secretary of the Department of Energy and Environment, may establish any number of divisions, offices, or units for the conduct of environmental affairs of the state and may prescribe the functions and duties of each division, office, or unit.

1
2 SECTION 2928. Arkansas Code § 8-13-102(b)(2) and (3), concerning the
3 authority of the Director of the Arkansas Department of Environmental Quality
4 to adopt an alternative organizational structure, are amended to read as
5 follows:

6 (2)(A) This section does not limit any provision of state law
7 directing or requiring the ~~Arkansas Department~~ Division of Environmental
8 Quality to carry out any function or provide any service.

9 (B) However, nothing in this section shall be construed to
10 prevent the reassignment of functions or services assigned by state law where
11 reassignment does not alter the obligation of the ~~department~~ division to
12 continue providing such function or service;

13 (3) Such reorganization shall be based on a comprehensive
14 analysis of all of the functions and duties administered by the ~~department~~
15 division and the development of a ten-year strategic plan of ~~department~~
16 division operations; and

17
18 SECTION 2929. Arkansas Code § 8-13-103(a), concerning requirements for
19 comprehensive analysis and strategic planning by the Arkansas Department of
20 Environmental Quality, is amended to read as follows:

21 (a) Any reorganization of the functions and duties for the conduct of
22 environmental affairs through the provisions of this chapter shall be based
23 on a comprehensive analysis of the existing operations of the ~~Arkansas~~
24 ~~Department~~ Division of Environmental Quality and the development of a ten-
25 year strategic plan for ~~department~~ division operations. Such strategic plan
26 shall be reviewed and updated on an annual basis and shall be made available
27 for public review through formal notice.

28
29 SECTION 2930. Arkansas Code § 8-13-103(b)(1), concerning requirements
30 for comprehensive analysis and strategic planning by the Arkansas Department
31 of Environmental Quality, is amended to read as follows:

32 (1) A comprehensive analysis of each existing division,
33 function, and duty performed by the ~~department~~ division in providing
34 environmental services; and

35
36 SECTION 2931. Arkansas Code § 8-13-103(c)(1), concerning requirements

1 for comprehensive analysis and strategic planning by the Arkansas Department
2 of Environmental Quality, is amended to read as follows:

3 (c)(1) The strategic plan shall outline a management organization for
4 the ~~department~~ division that promotes environmental protection and
5 enhancement.

6
7 SECTION 2932. Arkansas Code § 8-13-103(c)(2)(B)(iii), concerning
8 requirements for comprehensive analysis and strategic planning by the
9 Arkansas Department of Environmental Quality, is amended to read as follows:

10 (iii) Such indicators shall be developed by a work
11 group appointed by the Director of the ~~Arkansas Department~~ Division of
12 Environmental Quality consisting of representatives of the ~~department~~
13 division working in collaboration with representatives from state and federal
14 agencies, city and county officials, nonprofit organizations, minority
15 groups, industry, colleges and universities, civic groups, and other
16 stakeholders in environmental affairs;

17
18 SECTION 2933. Arkansas Code § 8-13-103(c)(2)(C), concerning
19 requirements for comprehensive analysis and strategic planning by the
20 Arkansas Department of Environmental Quality, is amended to read as follows:

21 (C) To organize the ~~department~~ division according to
22 business functions and duties;

23
24 SECTION 2934. Arkansas Code § 12-63-402(c)(1)(B), concerning the
25 Adjutant General of the State of Arkansas as the custodian of all military
26 property and military reservations, is amended to read as follows:

27 (B) The laws, regulations, rules, or orders of the
28 ~~Arkansas Department~~ Division of Environmental Quality or the United States
29 Environmental Protection Agency; or

30
31 SECTION 2935. Arkansas Code § 12-63-402(c)(2)(B), concerning the
32 Adjutant General of the State of Arkansas as the custodian of all military
33 property and military reservations, is amended to read as follows:

34 (B) The Attorney General, after conferring with the
35 Director of the ~~Arkansas Department~~ Division of Environmental Quality, shall
36 advise the Governor in writing that the potential financial liability of the

1 state for environmental remediation is de minimus, and if the Governor shall
2 so approve and concur in the Attorney General's advice; or

3
4 SECTION 2936. Arkansas Code § 12-82-104(a)(1)(A), concerning the State
5 Emergency Response Commission, is amended to read as follows:

6 (A) The ~~directors~~ executive heads of the Department of
7 Health, the ~~Arkansas Department~~ Division of Environmental Quality, the
8 ~~Department~~ Division of Arkansas State Police, the ~~Arkansas Department~~
9 Division of Emergency Management, the ~~Department~~ Division of Labor, the
10 Arkansas Fire Training Academy, ~~and~~ the Arkansas Department of
11 Transportation, and the Adjutant General, or their designated
12 representatives;

13
14 SECTION 2937. Arkansas Code § 14-25-201(d)(1), concerning responsible
15 management entities and wastewater treatment systems, is amended to read as
16 follows:

17 (d)(1) Any installation, operation, or maintenance performed on a
18 wastewater treatment system on behalf of a responsible management entity
19 shall be done in compliance with the Arkansas Water and Air Pollution Control
20 Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control
21 and Ecology Commission as administered by the ~~Arkansas Department~~ Division of
22 Environmental Quality or its successor and the Department of Health or its
23 successor.

24
25 SECTION 2938. Arkansas Code § 14-25-201(e)(1)(A), concerning
26 responsible management entities and wastewater treatment systems, is amended
27 to read as follows:

28 (A) Before the construction of a wastewater treatment
29 system begins, the developer secures written approval of the proposed
30 wastewater treatment system from the Department of Health and complies with
31 all applicable permitting requirements, including stormwater, through the
32 ~~Arkansas Department~~ Division of Environmental Quality pursuant to the
33 Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the
34 regulations of the Arkansas Pollution Control and Ecology Commission;

35
36 SECTION 2839. Arkansas Code § 14-72-101(a), concerning municipal water

1 and sewer revenue bonds for repayment of water pollution control grants, is
2 amended to read as follows:

3 (a) Any city of the first class, city of the second class, or
4 incorporated town, hereinafter referred to as a "municipality", which has
5 received from the ~~Arkansas Department~~ Division of Environmental Quality a
6 water pollution control project grant funded from the proceeds of bonds of
7 the ~~department~~ division issued pursuant to §§ 8-5-301 – 8-5-318 [repealed]
8 may issue water revenue bonds under the provisions of § 14-234-201 et seq.,
9 sewer revenue bonds under the provisions of §§ 14-235-201 – 14-235-224, or
10 combined water and sewer revenue bonds for the purpose of refunding the bonds
11 of the ~~department~~ division issued to fund the grant.

12

13 SECTION 2940. Arkansas Code § 14-86-302(a), concerning the
14 applicability of laws to entities under a federal order for sanitary sewer
15 discharges, is amended to read as follows:

16 (a) The provisions of this subchapter shall not be applicable to any
17 city, county, or area which is under an order from the ~~Arkansas Department~~
18 Division of Environmental Quality and the United States Environmental
19 Protection Agency to meet the minimum requirements of the United States
20 Environmental Protection Agency for sanitary sewer discharge.

21

22 SECTION 2941. Arkansas Code § 14-116-501(d)(2)(A), concerning proposed
23 improvement plan for assessment-based water district projects, is amended to
24 read as follows:

25 (2)(A) The Arkansas Natural Resources Commission shall solicit
26 written comment from appropriate federal and state agencies on the items
27 described in the final survey and report, including, but not limited to, the
28 United States Army Corps of Engineers, the United States Fish and Wildlife
29 Service, the Arkansas State Game and Fish Commission, the ~~Department~~ Division
30 of Arkansas Heritage, and the ~~Arkansas Department~~ Division of Environmental
31 Quality.

32

33 SECTION 2942. Arkansas Code § 14-206-105(a)(1)(A), concerning proof of
34 service, notice, and filing fee for an application for a gas or electric
35 utility, is amended to read as follows:

36 (A) The ~~Arkansas Department~~ Division of Environmental

1 Quality;

2

3 SECTION 2943. Arkansas Code § 14-206-105(a)(1)(D), concerning proof of
4 service, notice, and filing fee for an application for a gas or electric
5 utility, is amended to read as follows:

6 (D) The Arkansas Energy Office of the ~~Arkansas Department~~
7 Division of Environmental Quality;

8

9 SECTION 2944. Arkansas Code § 14-234-122 is amended to read as
10 follows:

11 14-234-122. Penalty provision.

12 Any entity not complying with §§ 14-234-119 – 14-234-121 may be subject
13 to fines up to one thousand dollars (\$1,000) by the Department of Health, the
14 ~~Arkansas Department~~ Division of Environmental Quality, or the Arkansas
15 Natural Resources Commission and any permits or licenses obtained from these
16 agencies are subject to cancellation or nonrenewal.

17

18 SECTION 2945. Arkansas Code § 14-235-304(2)(B), concerning
19 restrictions on connections to a municipal sewer, is amended to read as
20 follows:

21 (B) A municipal board of health may order or compel the
22 building of a sewer by a property owner under subdivision (2)(A) of this
23 section only if the existing sewer on the property owner's property is the
24 subject of an enforcement action by the ~~Arkansas Department~~ Division of
25 Environmental Quality or a prosecuting attorney.

26

27 SECTION 2946. Arkansas Code § 14-236-104(a)(3), concerning certain
28 individual systems excepted from the Arkansas Sewage Disposal Systems Act, is
29 amended to read as follows:

30 (3) In a subdivision for which a master plan has been approved
31 by the Department of Health, ~~or~~ the Arkansas Department of Environmental
32 Quality, or the Division of Environmental Quality prior to July 1, 1977, or
33 for which the Department of Health, ~~or~~ the Arkansas Department of
34 Environmental Quality, or the Division of Environmental Quality has otherwise
35 previously issued its written approval for the installation of individual
36 sewage disposal systems and where individual lots have been developed or sold

1 in reliance upon the prior written approval, individual sewage disposal
2 systems shall not be required to conform to more stringent specifications as
3 to design, construction, and installation than those standards in effect at
4 the time of or referred to in the prior written approval.

5
6 SECTION 2947. Arkansas Code § 14-236-109 is amended to read as
7 follows:

8 14-236-109. Property owners' associations – Powers and duties.

9 Property owners' associations that construct and maintain or have
10 constructed and maintained sewage disposal facilities in accordance with the
11 standards and regulations established by the Division of Environmental Health
12 Protection of the Department of Health or the ~~Arkansas Department~~ Division of
13 Environmental Quality shall have jurisdiction over the disposal of sewage
14 within and for the subdivided area over which their authority extends and
15 shall have general supervision and authority over the location, design,
16 construction, installation, and operation of individual and community sewage
17 disposal systems to the extent that the general supervision and authority is
18 consistent with this chapter and the rules and regulations promulgated
19 thereunder.

20
21 SECTION 2948. Arkansas Code § 14-250-102(3), concerning the definition
22 of "department" under the Wastewater Treatment Districts Act, is repealed.

23 ~~(3) "Department" means the Arkansas Department of Environmental~~
24 ~~Quality;~~

25
26 SECTION 2949. Arkansas Code § 15-4-2406(a)(2)(B), concerning refund of
27 the recycling tax credit, is amended to read as follows:

28 (B) The Director of the ~~Arkansas Department~~ Division of
29 Environmental Quality finds that the qualified manufacturer of steel has
30 operated the waste reduction, reuse, or recycling equipment in a manner which
31 demonstrates a pattern of intentional failure to comply with final
32 administrative or judicial orders which clearly indicates a disregard for
33 environmental regulation.

34
35 SECTION 2950. Arkansas Code § 15-5-901(d)(1), concerning the
36 establishment of the Construction Assistance Revolving Loan Fund, is amended

1 to read as follows:

2 (d)(1) There is established a separate account within the Construction
3 Assistance Revolving Loan Fund, designated the "Remedial Action Account",
4 into which moneys identified in § 8-7-504(c) and any other moneys as
5 designated by the Director of the ~~Arkansas Department~~ Division of
6 Environmental Quality shall be deposited.

7

8 SECTION 2951. Arkansas Code § 15-5-902(b), concerning the
9 administration of the Construction Assistance Revolving Loan Fund, is amended
10 to read as follows:

11 (b) The commission may enter into contracts and other agreements in
12 connection with the operation of the fund, including without limitation
13 contracts and agreements with federal agencies, local governmental entities,
14 the Arkansas Development Finance Authority, the ~~Arkansas Department~~ Division
15 of Environmental Quality, and other persons to the extent necessary or
16 convenient for the implementation of the fund and programs financed, in whole
17 or in part, with moneys in the fund.

18

19 SECTION 2952. Arkansas Code § 15-5-909, concerning the definition of
20 "department" under the law regarding Construction Assistance Revolving Loans,
21 is repealed.

22 ~~(5) "Department" means the Arkansas Department of Environmental~~
23 ~~Quality or a successor agency of the state;~~

24

25 SECTION 2953. The introductory language of Arkansas Code § 15-5-
26 1204(a)(1), concerning issuance of revenue bonds by the Arkansas Development
27 Finance Authority at the request of the Director of the Arkansas Department
28 of Environmental Quality, is amended to read as follows:

29 (a)(1) Upon the request of the Director of the ~~Arkansas Department~~
30 Division of Environmental Quality and based upon an estimate by the
31 Department of Finance and Administration of the pledged fees to be collected,
32 the Arkansas Development Finance Authority may issue bonds for the purpose
33 of:

34

35 SECTION 2954. Arkansas Code § 15-5-1502(2), concerning the definition
36 of "department" under the Arkansas Sewage Disposal Systems Act, is repealed.

1 ~~(2) “Department” means the Arkansas Department of Environmental~~
2 ~~Quality or its successor; and~~

3
4 SECTION 2955. Arkansas Code § 15-5-1503(a)(1), concerning the
5 establishment and use of the Brownfield Revolving Loan Fund, is amended to
6 read as follows:

7 (a)(1) There is established on the books of the Arkansas Development
8 Finance Authority a special restricted fund to be known as the “Brownfield
9 Revolving Loan Fund”, which shall be maintained by the authority and
10 administered by the ~~Arkansas Department~~ Division of Environmental Quality for
11 the purposes stated under this subchapter.

12
13 SECTION 2956. Arkansas Code § 15-5-1505 is amended to read as follows:
14 15-5-1505. Brownfield Revolving Loan Fund – Administration.

15 (a)(1) The Brownfield Revolving Loan Fund shall be administered by the
16 ~~Arkansas Department~~ Division of Environmental Quality, with the Arkansas
17 Development Finance Authority serving as agent for the ~~department~~ division.

18 (2) The ~~department~~ division may establish procedures to
19 administer the fund and the programs financed, in whole or in part, with
20 moneys from the fund that are used for the purposes stated under this
21 subchapter.

22 (3) The ~~department~~ division may enter into contracts and other
23 agreements in connection with the operation of the fund, including contracts
24 and agreements with federal agencies, local governmental entities, the
25 authority, and other persons, to implement this subchapter.

26 (b) The ~~department~~ division shall have full authority to operate the
27 fund and may make withdrawals as necessary to achieve the intended purposes
28 of this subchapter.

29
30 SECTION 2957. The introductory language of Arkansas Code § 15-5-
31 1506(a), concerning the loans and grants from the Brownfield Revolving Loan
32 Fund, is amended to read as follows:

33 (a) With approval of the ~~Arkansas Department~~ Division of Environmental
34 Quality, the Arkansas Development Finance Authority may:

35
36 SECTION 2958. Arkansas Code § 15-5-1509 is amended to read as follows:

1 15-5-1509. Administrative fees.

2 (a) The ~~Arkansas Department~~ Division of Environmental Quality and the
3 Arkansas Development Finance Authority may establish fees for their
4 respective administrative services under this subchapter, including the costs
5 of financing loans and awarding grants under this subchapter.

6 (b) The authority to establish fees under this section is supplemental
7 to the authority granted to the ~~department~~ division or the authority under
8 other laws.

9
10 SECTION 2959. Arkansas Code § 15-5-1510 is amended to read as follows:

11 15-5-1510. Collection of fees.

12 (a)(1) With approval of the ~~Arkansas Department~~ Division of
13 Environmental Quality, the Arkansas Development Finance Authority may collect
14 administrative fees and remit the fees directly to the authority within
15 fifteen (15) days after each payment is collected.

16 (2) The authority shall remit any administrative fee owed to the
17 ~~department~~ division, and the fees shall be deposited into the Brownfield
18 Revolving Loan Fund on a quarterly basis.

19 ~~(3)~~(b) Any administrative fees owed to the authority shall not
20 be deposited into the fund.

21
22 SECTION 2960. Arkansas Code § 15-5-1511 is amended to read as follows:

23 15-5-1511. Regulations.

24 The ~~Arkansas Department~~ Division of Environmental Quality may adopt
25 regulations as necessary to implement this subchapter.

26
27 SECTION 2961. Arkansas Code § 15-10-202(5), concerning a declaration
28 of policy by the General Assembly under the Arkansas Energy Reorganization
29 and Policy Act of 1981, is amended to read as follows:

30 (5) It is in the best interest of the citizens of this state to
31 establish the Arkansas Energy Office of the ~~Arkansas Department~~ Division of
32 Environmental Quality to coordinate the planning and execution of
33 comprehensive energy conservation programs; and

34
35 SECTION 2962. Arkansas Code § 15-10-203 is amended to read as follows:

36 15-10-203. Arkansas Energy Office – Creation.

1 (a)(1) There is created the Arkansas Energy Office of the ~~Arkansas~~
2 ~~Department~~ Division of Environmental Quality.

3 (2)(A) The executive head of this office shall be the Director
4 of the Arkansas Energy Office.

5 (B) The Director of the Arkansas Energy Office shall be
6 appointed by the ~~Director of the Arkansas Department of Environmental Quality~~
7 Secretary of the Department of Energy and Environment with the advice and
8 consent of the Governor.

9 (b) The office shall consist of such sections as may be established by
10 the Director of the Arkansas Energy Office, with the approval of the Director
11 of the ~~Arkansas Department of~~ Division of Environmental Quality and the
12 secretary.
13

14 SECTION 2963. Arkansas Code § 15-10-204(c), concerning the Director of
15 the Arkansas Energy Office, is amended to read as follows:

16 (c) In addition to other duties and functions prescribed for the
17 Director of the Arkansas Energy Office of the ~~Arkansas Department~~ Division of
18 Environmental Quality elsewhere in this subchapter, the Director of the
19 Arkansas Energy Office of the ~~Arkansas Department~~ Division of Environmental
20 Quality shall supervise the daily operation of the office and advise the
21 Director of the ~~Arkansas Department~~ Division of Environmental Quality, the
22 Governor, and the General Assembly on energy matters.
23

24 SECTION 2964. The introductory language of Arkansas Code § 15-10-
25 205(a), concerning the powers and duties of the Arkansas Energy Office of the
26 Arkansas Department of Environmental Quality, is amended to read as follows:

27 (a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
28 Environmental Quality shall coordinate authority and planning by the state in
29 energy-related matters and shall have the following duties and
30 responsibilities:
31

32 SECTION 2965. The introductory language of Arkansas Code § 15-10-
33 903(a)(1), concerning a rebate for refueling stations provided by the
34 Arkansas Energy Office of the Arkansas Department of Environmental Quality,
35 is amended to read as follows:

36 (a)(1) The Arkansas Energy Office of the ~~Arkansas Department~~ Division

1 of Environmental Quality may offer a rebate for each approved private
2 electric vehicle charging station, public electric vehicle charging station,
3 compressed natural gas refueling station, liquefied natural gas refueling
4 station, and liquefied petroleum gas refueling station that is:

5

6 SECTION 2966. Arkansas Code § 15-10-903(a)(2), concerning a rebate for
7 refueling stations provided by the Arkansas Energy Office of the Arkansas
8 Department of Environmental Quality, is amended to read as follows:

9 (2) The Director of the ~~Arkansas Department~~ Division of
10 Environmental Quality may increase the rebate percentages listed under
11 subdivision (a)(1) of this section if the increase is designated or
12 authorized by a funding source approved by a federal settlement or state
13 settlement.

14

15 SECTION 2967. The introductory language of Arkansas Code § 15-10-
16 904(a), concerning rebates for qualified alternative motor vehicle property,
17 is amended to read as follows:

18 (a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
19 Environmental Quality may offer a rebate for qualified alternative motor
20 vehicle property that is:

21

22 SECTION 2968. Arkansas Code § 15-10-904(b), concerning rebates for
23 qualified alternative motor vehicle property, is amended to read as follows:

24 (b) The Director of the ~~Arkansas Department~~ Division of Environmental
25 Quality may increase the rebate percentages listed under subsection (a) of
26 this section if the increase is designated or authorized by a funding source
27 approved by a federal settlement or state settlement.

28

29 SECTION 2969. Arkansas Code § 15-22-222(b), concerning minimum stream
30 flows established by the Arkansas Natural Resources Commission, is amended to
31 read as follows:

32 (b)(1) Prior to the establishment of minimum stream flows, the
33 Arkansas Natural Resources Commission shall notify by certified mail, return
34 receipt requested, the Arkansas State Game and Fish Commission, the ~~Arkansas~~
35 ~~Department~~ Division of Environmental Quality, and any other interested state
36 boards and commissions.

1 (2) Within thirty (30) days of receipt of notice, the Arkansas
2 State Game and Fish Commission and the ~~Arkansas Department~~ Division of
3 Environmental Quality shall file written comments with the Arkansas Natural
4 Resources Commission.

5
6 SECTION 2970. Arkansas Code § 15-22-224(b)(1)(B)(ii), concerning
7 appointment of receiver, is amended to read as follows:

8 (ii) The Arkansas Water and Air Pollution Control
9 Act, § 8-4-101 et seq., or rules promulgated in support of the Arkansas Water
10 and Air Pollution Control Act, § 8-4-101 et seq., by the Arkansas Pollution
11 Control and Ecology Commission or any successor or successors and enforced by
12 the ~~Arkansas Department~~ Division of Environmental Quality or any successor or
13 successors.

14
15 SECTION 2971. Arkansas Code § 15-22-224(g), concerning appointment of
16 receiver, is amended to read as follows:

17 (g) Upon certification by the Department of Health that the public
18 water system's or public sewer system's operation represents an immediate
19 public health threat or certification by the ~~Arkansas Department~~ Division of
20 Environmental Quality that the public sewer system is being operated in a
21 manner to allow the discharge of pollutants in quantities unacceptable under
22 applicable permits or state water quality standards and posing an imminent
23 threat to public health, a court having jurisdiction in any proper action
24 may, upon application of the Arkansas Natural Resources Commission,
25 immediately appoint a receiver to take charge of the public water system or
26 public sewer system.

27
28 SECTION 2972. Arkansas Code § 15-22-906(c), concerning the groundwater
29 protection program, is amended to read as follows:

30 (c)(1) This program shall not be inconsistent with nor shall it
31 preempt or supersede any regulatory authority currently or in the future
32 vested with the ~~Arkansas Department~~ Division of Environmental Quality, the
33 State Plant Board, or the Department of Health.

34 (2) However, no permit or prior authorization from the ~~Arkansas~~
35 ~~Department~~ Division of Environmental Quality, the State Plant Board, or the
36 Department of Health shall be required to implement the provisions of this

1 subchapter.

2

3 SECTION 2973. Arkansas Code § 15-23-303(2), concerning the definition
4 of "natural rivers" under the Arkansas Natural and Scenic Rivers System Act,
5 is amended to read as follows:

6 (2) "Natural rivers" means those rivers or sections thereof that
7 are generally free from man-made impoundments and may have primitive,
8 undeveloped roads whose lands are essentially primitive, i.e., with a minimal
9 amount of disturbance by people. The water shall have the use classification
10 AA according to the 1976 Arkansas water quality inventory report by the
11 Arkansas Department of Environmental Quality, now known as the Division of
12 Environmental Quality;

13

14 SECTION 2974. Arkansas Code § 15-23-303(3), concerning the definition
15 of "natural rivers" under the Arkansas Natural and Scenic Rivers System Act,
16 is amended to read as follows:

17 (3) "Pastoral rivers" means rivers or sections thereof which are
18 readily accessible, have some housing or other development near their
19 shorelines, have preexisting impoundments that do not substantially alter the
20 character and quality of the stream, partially or predominantly flow through
21 agricultural areas, and have the use classification B according to the 1976
22 Arkansas water quality inventory report by the ~~department~~ Arkansas Department
23 of Environmental Quality, now known as the Division of Environmental Quality;

24

25 SECTION 2975. Arkansas Code § 15-55-204 is amended to read as follows:
26 15-55-204. State Geologist.

27 (a)(1) The State Geologist shall be appointed by and serve at the
28 pleasure of the Governor.

29 (2) The State Geologist shall report to the Secretary of the
30 Department of Energy and Environment.

31 (b) He or she shall:

32 (1) Be charged with the duty of administering the provisions of
33 this subchapter and the rules, regulations, and orders established
34 thereunder;

35 (2) Be custodian of all property held in the name of the
36 Arkansas Geological Survey, and shall be, ex officio, with approval of the

1 Secretary of the Department of Energy and Environment, the disbursing agent
2 of all funds available for its use; ~~and~~

3 (3) Furnish bond to the state, with corporate surety thereon, in
4 the penal sum of ten thousand dollars (\$10,000), conditioned that he or she
5 will faithfully perform his or her duties of employment and properly account
6 for all funds received and disbursed by him or her. An additional disbursing
7 agent's bond shall not be required of the State Geologist. The bond so
8 furnished shall be filed with the Secretary of State, and an executed
9 counterpart thereof shall be filed with the Auditor of State; and

10 (c) The ~~commission~~ Arkansas Geological Commission, by resolution duly
11 adopted, may delegate to the State Geologist any of the powers or duties
12 vested in or imposed upon it by this subchapter, and the delegated powers and
13 duties may be exercised by the State Geologist in the name of the ~~commission~~
14 Arkansas Geological Commission.

15
16 SECTION 2976. Arkansas Code § 15-55-205 is amended to read as follows:
17 15-55-205. Geological assistants and engineers.

18 (a) It shall be the duty of the State Geologist, by and with the
19 approval of the Arkansas Geological Survey and the Secretary of the
20 Department of Energy and Environment, to appoint trained geological
21 assistants, engineers, and others efficient in the arts and sciences as may
22 be necessary to completely carry on the investigations undertaken.

23 (b) The State Geologist, assistants, and engineers, are directed to go
24 into any mine or other place, where it is thought necessary by the State
25 Geologist to go, in executing the directions of the ~~commission~~ or the
26 Department of Energy and Environment.

27
28 SECTION 2977. Arkansas Code § 15-57-202(a), concerning exemptions from
29 land reclamation laws, is amended to read as follows:

30 (a) The owners of lands on which are situated open-cut mining pits
31 that are not subject to the requirements of the Arkansas Open-Cut Land
32 Reclamation Act of 1977 [repealed] or any other land reclamation laws of this
33 state are authorized to make voluntary environmental or aesthetic
34 improvements to reclaim or improve the lands and the open-cut mining pits
35 thereon after first giving written notice of the proposed improvements to the
36 ~~Arkansas Department~~ Division of Environmental Quality.

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SECTION 2978. Arkansas Code § 15-57-203 is amended to read as follows:
15-57-203. Notice of proposed reclamation – Investigation.

(a) Any owner of such lands who wishes to make environmental or aesthetic improvements to reclaim or improve the lands, as authorized in this subchapter, shall file written notice thereof with the ~~Arkansas Department~~ Division of Environmental Quality before entering upon the improvements.

(b) The purpose of the notice shall be to advise the ~~department~~ division of the proposed reclamation or improvements to be made and to enable the ~~department~~ division to make investigations necessary to assure that the owner of the lands does not engage in activities in connection with any reclamation or improvement project that would be in violation of the Arkansas Open-Cut Land Reclamation Act, § 15-57-301 et seq.

SECTION 2979. Arkansas Code § 15-57-303(4) and (5) concerning the definition of "department" and "director" under the Arkansas Open-Cut Land Reclamation Act, are repealed.

~~(4) "Department" means the Arkansas Department of Environmental Quality or such department or other entity which may lawfully succeed to the powers and duties of the department;~~

~~(5) "Director" means the executive head and active administrator of the Arkansas Department of Environmental Quality;~~

SECTION 2980. Arkansas Code § 15-57-303(11), concerning the definition of "permit term" under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(11) "Permit term" means the period of time beginning with the date upon which a permit is granted for open-cut mining of lands under the provisions of this subchapter and ending on the date requested by the operator and specified by the ~~department~~ division, though not to exceed five (5) years;

SECTION 2981. Arkansas Code § 15-57-304(a)(1), concerning violations of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(1) Violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission

1 or the ~~Arkansas Department~~ Division of Environmental Quality issued pursuant
2 to this subchapter;

3
4 SECTION 2982. Arkansas Code § 15-57-304(a)(5), concerning violations
5 of the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

6 (5) Willfully resist, prevent, impede, or interfere with the
7 Director of the ~~Arkansas Department~~ Division of Environmental Quality or any
8 of his or her authorized representatives in the performance of duties
9 pursuant to this subchapter.

10
11 SECTION 2983. The introductory language of Arkansas Code § 15-57-
12 305(a), concerning civil and administrative penalties regarding the Arkansas
13 Open-Cut Land Reclamation Act, is amended to read as follows:

14 (a) Civil Penalties. The ~~Arkansas Department~~ Division of
15 Environmental Quality is authorized to institute a civil action in any court
16 of competent jurisdiction to accomplish any or all of the following:

17
18 SECTION 2984. Arkansas Code § 15-57-305(a)(3), concerning civil and
19 administrative penalties regarding the Arkansas Open-Cut Land Reclamation
20 Act, is amended to read as follows:

21 (3) To recover all costs, expenses, and damages to the
22 ~~department~~ division or any other agency of the state in enforcing the
23 provisions of this subchapter and reclaiming affected land;

24
25 SECTION 2985. The introductory language of Arkansas Code § 15-57-
26 305(b)(1), concerning civil and administrative penalties regarding the
27 Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

28 (1) Any person who engages in open-cut mining without first
29 securing a permit as required by this subchapter or who fails to reclaim
30 affected lands in accordance with this subchapter or who violates any
31 provision of this or any order, regulation, rule, permit, or reclamation plan
32 issued pursuant thereto, may be assessed an administrative civil penalty by
33 the ~~department~~ division not to exceed:

34
35 SECTION 2986. Arkansas Code § 15-57-306 is amended to read as follows:
36 15-57-306. Administration.

1 The ~~Arkansas Department~~ Division of Environmental Quality through the
2 Director of the ~~Arkansas Department~~ Division of Environmental Quality, and
3 any representatives designated by the director, shall administer and enforce
4 the provisions of this subchapter, except for those provisions specifically
5 designated to the Arkansas Pollution Control and Ecology Commission.

6
7 SECTION 2987. Arkansas Code § 15-57-308 is amended to read as follows:
8 15-57-308. Technical and financial assistance.

9 The ~~Arkansas Department~~ Division of Environmental Quality shall have
10 the authority to cooperate with and receive technical and financial
11 assistance from the United States, or any department, agency, or officer
12 thereof, for any purposes relating to the reclamation of affected lands.

13
14 SECTION 2988. Arkansas Code § 15-57-309 is amended to read as follows:
15 15-57-309. Entry on lands for inspection.

16 The ~~Arkansas Department~~ Division of Environmental Quality or its
17 designated representatives may enter upon the lands affected by open-cut
18 mining at all reasonable times for the purpose of determining compliance with
19 the provisions of this subchapter.

20
21 SECTION 2989. Arkansas Code § 15-57-310(a), concerning the necessity
22 of a permit and effective date of the Arkansas Open-Cut Land Reclamation Act,
23 is amended to read as follows:

24 (a) It shall be unlawful for any operator to engage in open-cut mining
25 without first obtaining from the ~~Arkansas Department~~ Division of
26 Environmental Quality a permit to do so in the form required by the ~~Arkansas~~
27 ~~Department~~ Division of Environmental Quality.

28
29 SECTION 2990. Arkansas Code § 15-57-310(g), concerning the necessity
30 of a permit and effective date of the Arkansas Open-Cut Land Reclamation Act,
31 is amended to read as follows:

32 (g)(1) The ~~Arkansas Department~~ Division of Environmental Quality shall
33 develop regulations to implement the provisions of this chapter.

34 (2) The ~~Arkansas Department~~ Division of Environmental Quality
35 shall develop documentation that will guide an operator through the
36 permitting process.

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SECTION 2991. Arkansas Code § 15-57-311(a), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(a) Any person desiring to engage in open-cut mining shall make written application to the ~~Arkansas Department~~ Division of Environmental Quality for a permit. The application shall be made upon a form furnished by the ~~department~~ division.

SECTION 2992. Arkansas Code § 15-57-311(c), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(c) The perimeter of the area to be permitted must be clearly marked on the ground at all times until such time as the permitted area is released from reclamation liability by the ~~department~~ division.

SECTION 2993. Arkansas Code § 15-57-311(e), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(e) The application for a mining permit shall be accompanied by a bond or substituted security for the affected or the proposed affected area in favor of the State of Arkansas through the ~~department~~ division, to be effective from and after the time that the operator has affected land in the process of open-cut mining or after the time that a permit is granted and which shall meet the requirements of § 15-57-316.

SECTION 2994. Arkansas Code § 15-57-311(g), concerning an application for a permit and fees and bonds under the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

(g) The ~~department~~ division may approve a permit for mining and reclaiming the permitted area in increments, provided that the permit application contains an acceptable incremental mining plan and is accompanied by a bond or substituted security to cover reclamation of each successive increment prior to affecting it.

SECTION 2995. The introductory language of Arkansas Code § 15-57-

1 311(j)(1)(A), concerning an application for a permit and fees and bonds under
2 the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

3 (j)(1)(A) After notice and opportunity for a public hearing, the
4 ~~department~~ division may develop and issue general permits for any category of
5 activities involving open-cut mining operations if the ~~department~~ division
6 determines that the activities in a category:

7
8 SECTION 2996. Arkansas Code § 15-57-311(j)(1)(B), concerning an
9 application for a permit and fees and bonds under the Arkansas Open-Cut Land
10 Reclamation Act, is amended to read as follows:

11 (B) To qualify for inclusion under the general permit,
12 applicants shall submit a notice of intent and supporting documentation on
13 forms developed by the ~~department~~ division.

14
15 SECTION 2997. Arkansas Code § 15-57-311(j)(2), concerning an
16 application for a permit and fees and bonds under the Arkansas Open-Cut Land
17 Reclamation Act, is amended to read as follows:

18 (2) The Director of the ~~Arkansas Department~~ Division of
19 Environmental Quality at his or her discretion may require an applicant to
20 seek coverage under an individual permit.

21
22 SECTION 2998. The introductory language of Arkansas Code § 15-57-
23 311(j)(3)(B), concerning an application for a permit and fees and bonds under
24 the Arkansas Open-Cut Land Reclamation Act, is amended to read as follows:

25 (B) The general permit may be revoked or modified by the
26 ~~department~~ division if after opportunity for a public hearing the ~~department~~
27 division determines that the activities authorized by the general permit:

28
29 SECTION 2999. Arkansas Code § 15-57-313 is amended to read as follows:
30 15-57-313. Withdrawal of land covered by permit.

31 An operator may withdraw any land covered by a permit, except affected
32 land, by notifying the ~~Arkansas Department~~ Division of Environmental Quality,
33 in which case the penalty of the bond or substituted security filed by the
34 operator pursuant to the provisions of this subchapter shall be reduced
35 proportionately.

36

1 SECTION 3000. Arkansas Code § 15-57-314 is amended to read as follows:
2 15-57-314. Extension of permit.

3 Where the area for which a permit is in effect is not mined or where
4 open-cut mining operations have not been completed during the permit term,
5 the permit as to such area may be extended by the ~~Arkansas Department~~
6 Division of Environmental Quality on the terms and conditions required by the
7 ~~department~~ division.

8
9 SECTION 3001. Arkansas Code § 15-57-315(1)(A)(ii)(b), concerning the
10 duties of an operator in an open-cut mine, is amended to read as follows:

11 (b) The ~~Arkansas Department~~ Division of
12 Environmental Quality may approve a steeper final slope where the original
13 contour of the affected land was steeper than the one (1) to three (3) ratio
14 if the operator can assure, to the satisfaction of the ~~department~~ division,
15 the integrity of the final contour.

16
17 SECTION 3002. Arkansas Code § 15-57-315(1)(B), concerning the duties
18 of an operator in an open-cut mine, is amended to read as follows:

19 (B) The Director of the ~~Arkansas Department~~ Division of
20 Environmental Quality shall develop regulations which will allow the
21 ~~department~~ division the discretion to permit deviations from certain
22 reclamation standards, including final slope steepness requirements within
23 this subdivision (1), because of unique mining situations, provided the
24 deviations are consistent with the declaration of policy in this subchapter;
25

26 SECTION 3003. Arkansas Code § 15-57-315(2)(B)(ii), concerning the
27 duties of an operator in an open-cut mine, is amended to read as follows:

28 (ii) However, where water runoff from outside the
29 affected area into the lake has a pH factor of less than six (6) or greater
30 than nine (9) or in order to allow the lake to more closely match the natural
31 environment, the ~~department~~ division, in its discretion, may allow a
32 deviation in pH levels;
33

34 SECTION 3004. Arkansas Code § 15-57-315(3), concerning the duties of
35 an operator in an open-cut mine, is amended to read as follows:

36 (3) On all affected land which is to be reforested, the operator

1 shall construct reasonable fire lanes or access roads of at least ten feet
2 (10') in width through the land unless this requirement is waived by the
3 ~~department~~ division;

4
5 SECTION 3005. Arkansas Code § 15-57-315(4)(A), concerning the duties
6 of an operator in an open-cut mine, is amended to read as follows:

7 (4)(A) Requirements for both establishment and maintenance of
8 the vegetative cover shall be established by the ~~department~~ division, and the
9 operator shall comply with the requirements or use other equally effective
10 means.

11
12 SECTION 3006. Arkansas Code § 15-57-315(4)(C), concerning the duties
13 of an operator in an open-cut mine, is amended to read as follows:

14 (C)(i) Laboratory soil tests and recommendations shall be
15 obtained from the University of Arkansas Cooperative Extension Service or any
16 other public or private organization or person approved by the ~~department~~
17 division.

18 (ii) The operator shall furnish copies of the soil
19 sample report and recommendations to the ~~department~~ division.

20
21 SECTION 3007. Arkansas Code § 15-57-315(5)(B), concerning the duties
22 of an operator in an open-cut mine, is amended to read as follows:

23 (B)(i) For the ~~department~~ division to approve a variance
24 on the fifty-foot buffer zone, there must be an agreement between the
25 affected property owner or right-of-way holder and the operator.

26 (ii) Proof of such an agreement must be provided to
27 the ~~department~~ division.

28
29 SECTION 3008. Arkansas Code § 15-57-315(6) and (7), concerning the
30 duties of an operator in an open-cut mine, are amended to read as follows:

31 (6)(A) Whenever the exposed face of mined seams that contain
32 acid-forming materials is not covered by water or by permanent water
33 impoundment, the operator who mined the seams shall cover the exposed face of
34 the seams with earth or spoil materials to a depth of not less than three
35 feet (3') upon receiving approval from the ~~department~~ division.

36 (B) Alternatively, the ~~department~~ division may approve any

1 other course or conduct proposed by the operator which will assure protection
2 of the seams from atmospheric exposure, minimize leaching action, or
3 otherwise conform with water pollution control criteria to prevent formation
4 of acid mine water or discharge mine water;

5 (7)(A) The operator shall submit to the ~~department~~ division no
6 later than June 1 of each year of the permit term:

7 (i) A map in a form acceptable to the ~~department~~
8 division showing the location of the affected areas by section, township,
9 range, and county with other legal description as will identify the affected
10 land during the permit term upon which the operator has completed mining
11 operations;

12 (ii) The extent of completed reclamation as required
13 under § 15-57-311(d); and

14 (iii) A legend upon the map showing the number of
15 acres of affected land.

16 (B) The annual report shall include the amount of material
17 mined during each twelve-month period;

18
19 SECTION 3009. Arkansas Code § 15-57-315(8)(A), concerning the duties
20 of an operator in an open-cut mine, is amended to read as follows:

21 (8)(A) The ~~department's~~ division's approval of the operator's
22 reclamation plan may be based upon the advice and technical assistance of the
23 Arkansas Natural Resources Commission, the Arkansas State Game and Fish
24 Commission, the State Forester, the Arkansas Geological Survey, and other
25 agencies or persons having experience in foresting and reclaiming open-cut
26 mined lands with forest or agronomic or horticultural species, based upon
27 scientific knowledge from research into reclaiming and utilizing forest and
28 agronomic species on open-cut mined lands.

29
30 SECTION 3010. Arkansas Code § 15-57-315(9)(A)(ii), concerning the
31 duties of an operator in an open-cut mine, is amended to read as follows:

32 (ii) Where natural weathering and leaching of
33 affected land fails to support plant growth at the end of the reclamation
34 period as required under § 15-57-311(d), the ~~department~~ division, at the
35 request of the operator, may approve a permit extension from year-to-year
36 from the termination of the permit on the permitted area.

1
2 SECTION 3011. Arkansas Code § 15-57-315(9)(B), concerning the duties
3 of an operator in an open-cut mine, is amended to read as follows:

4 (B) In the event that the operator does not comply with
5 its schedule of reclamation or extensions granted within a reasonable period
6 of time, to be determined by the ~~department~~ division, the bond or substituted
7 security of affected land not satisfactorily reclaimed shall be forfeited;

8
9 SECTION 3012. Arkansas Code § 15-57-315(10) and (11), concerning the
10 duties of an operator in an open-cut mine, are amended to read as follows:

11 (10) In the event that the operator's reclamation plan is found
12 impracticable by the operator, upon the application of the operator, the
13 ~~department~~ division, in its discretion, may allow the modification of the
14 reclamation plan, provided that the modified plan will carry out the purposes
15 of this subchapter;

16 (11) All mine spoil generated by the operator shall be disposed
17 of in a manner approved by the ~~department~~ division and designed to control
18 siltation, erosion, or other damage to streams and natural watercourses, as
19 best allowed by the soil conditions of the permitted area;

20
21 SECTION 3013. Arkansas Code § 15-57-315(14), concerning the duties of
22 an operator in an open-cut mine, is amended to read as follows:

23 (14) Upon approval from the ~~department~~ division, stockpiles of
24 processed materials may be left without being reclaimed if there is a
25 likelihood that there will be a market for the material in the future and
26 that there will be no form of pollution from the stockpiles remaining on or
27 leaving the property.

28
29 SECTION 3014. Arkansas Code § 15-57-316 is amended to read as follows:
30 15-57-316. Bond of operator.

31 (a)(1)(A) Any bond provided in this subchapter to be filed with the
32 ~~Arkansas Department~~ Division of Environmental Quality by the operator shall
33 be in such form as the ~~department~~ division shall prescribe, payable to the
34 State of Arkansas through the ~~department~~ division, conditioned that the
35 operator shall faithfully perform all requirements of this subchapter and
36 comply with all rules, regulations, and orders made in accordance with the

1 provisions of this subchapter.

2 (B) The bond shall be signed by the operator and a good
3 and sufficient corporate surety authorized to do business in the United
4 States.

5 (2) The penalty of the bond shall be in an amount equal to the
6 estimated cost of reclamation, as required in § 15-57-311(d).

7 (3)(A) In the event that the ~~department~~ division finds the cost
8 of reclamation to be an underestimate, the ~~department~~ division shall make use
9 of available expertise to establish the estimated cost of reclamation, which
10 shall be the amount of the bond.

11 (B) In the event of a disagreement concerning the estimate
12 of the proper amount of the bond, the ~~department~~ division may retain
13 independent expertise as is necessary to establish the amount of the bond.

14 (4) The Arkansas Pollution Control and Ecology Commission shall
15 promulgate regulations concerning bonds and substituted security which will
16 attempt to ensure that small operators are not precluded from development of
17 mineral resources as a result of high bond amounts, but which will provide
18 reasonable security.

19 (b)(1) The ~~department~~ division may accept cash, securities, or other
20 collateral, including, but not limited to, letters of credit and mortgages on
21 real property provided by the operator in an amount equal to that of the
22 required bond as provided in subsection (a) of this section.

23 (2) The bond or substituted security may be increased or reduced
24 from time to time as provided in this subchapter.

25 (3) The bond or substituted security shall be in effect and
26 subject to forfeiture in accordance with this subchapter from and after the
27 time that the operator has affected land in the process of open-cut mining or
28 after the time a permit is granted by the ~~department~~ division until the
29 affected area has been reclaimed, approved, and released.

30 (c)(1) Any bond or substituted security shall not be cancelled by the
31 surety unless it has given no less than ninety (90) days' notice of the
32 cancellation to the ~~department~~ division.

33 (2) In no event shall a bond be cancelled on an area that at the
34 time of cancellation has become affected land under the provisions of this
35 subchapter.

36 (d)(1) If the license to do business of any surety upon a bond or

1 substituted security filed with the ~~department~~ division pursuant to this
2 subchapter shall be suspended or revoked, the operator, within thirty (30)
3 days after receiving notice of the revocation, shall substitute for the
4 surety a licensed corporate surety.

5 (2) Upon the failure of the operator to make substitution of the
6 surety, the ~~department~~ division shall suspend the permit of the operator
7 until the substitution is made.

8 (e)(1) The ~~department~~ division shall give written notice to the
9 operator of any violation of this subchapter or noncompliance with any of the
10 rules, regulations, or orders promulgated under this subchapter.

11 (2) If corrective measures determined by the ~~department~~
12 division, including, but not limited to, increase of the bond or substituted
13 security, are not commenced or agreed to by the operator within a reasonable
14 period of time to be determined by the ~~department~~ division, the ~~department~~
15 division may terminate the permit of the operator and forfeit the bond or
16 substituted security.

17 (3) If a permit has not been issued but a bond has been posted
18 during the application process and this process will not be completed and
19 there is affected land at the site, the ~~department~~ division may forfeit the
20 bond or substituted security as provided in § 15-57-317.

21 (f) The ~~department~~ division may reclaim any affected land for which a
22 bond has been forfeited.

23 (g)(1) Whenever an operator shall have completed all requirements
24 under the provisions of this subchapter as to any affected land, it shall so
25 notify the ~~department~~ division.

26 (2) If the ~~department~~ division determines that the operator has
27 completed reclamation requirements and achieved results appropriate to the
28 use for which the affected land was reclaimed, the ~~department~~ division shall
29 release the operator from further obligations regarding the affected land and
30 the penalty of the bond or substituted security shall be reduced accordingly.

31 (h)(1) Upon partial completion of reclamation, the operator may submit
32 a written request to the ~~department~~ division for the purpose of
33 proportionately reducing the amount of the bond or substituted security upon
34 affected lands.

35 (2) If the ~~department~~ division determines that proper
36 reclamation has been accomplished under the provisions of this subchapter on

1 an area less than the total area of the affected area, the ~~department~~
2 division shall proportionately reduce the amount of the bond or substituted
3 security.

4 (i) No operator shall be eligible to receive a new or renewed permit
5 who has had a permit revoked, bond forfeited, or who has outstanding
6 substantial unmitigated violations of this subchapter, including failure to
7 reclaim, unless the ~~department~~ division finds upon review a demonstrable
8 change of circumstances justifying an exception to these prohibitions.

9 (j) Liability under the bond or substituted security shall be for the
10 duration of the open-cut mining operation and for that period required to
11 establish successful reclamation of the affected area.

12 (k) Nothing contained herein shall be deemed to preclude the right of
13 the ~~department~~ division to recover the actual cost of reclamation over and
14 above the amount of bond.

15
16 SECTION 3015. Arkansas Code § 15-57-317 is amended to read as follows:
17 15-57-317. Bond forfeiture proceedings.

18 (a) The ~~Arkansas Department~~ Division of Environmental Quality may
19 institute proceedings to have the bond or substituted security of the
20 operator forfeited for any of the following reasons, including, but not
21 limited to:

22 (1) Failure to abate any violation of this subchapter or any
23 rule or regulation promulgated thereunder;

24 (2) Failure to comply with the terms and conditions of the open-
25 cut mining permit or the bond;

26 (3) Failure to comply with any order of the ~~department~~ division;

27 (4) Failure to reclaim any affected land in accordance with this
28 subchapter; or

29 (5) Insolvency, bankruptcy, or receivership of the operator.

30 (b) The ~~department~~ division shall notify the operator in writing of
31 the bond forfeiture, and the operator shall be given an opportunity for a
32 hearing as provided in this subchapter.

33
34 SECTION 3016. Arkansas Code § 15-57-318 is amended to read as follows:
35 15-57-318. Registration of existing open-cut mines.

36 The ~~Arkansas Department~~ Division of Environmental Quality shall require

1 registration of all existing unpermitted open-cut mines in which mining
2 operations are not being conducted.

3
4 SECTION 3017. Arkansas Code § 15-57-319 is amended to read as follows:

5 15-57-319. Land Reclamation Fund – Permit fee.

6 (a) A Land Reclamation Fund is established on the books of the
7 Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State.
8 The fund shall consist of civil penalty and bond forfeiture amounts, gifts,
9 grants, donations, and other funds as may be made available by the General
10 Assembly, including all interest earned upon moneys deposited into the fund.
11 The ~~Arkansas Department~~ Division of Environmental Quality shall use the funds
12 to accomplish reclamation of affected lands.

13 (b) All fees and any moneys collected as reimbursement for expenses,
14 costs, and damages to the state under the provisions of this subchapter shall
15 be deposited in the general revenue fund of the ~~department~~ division and shall
16 be used to defray the administrative and enforcement costs of this
17 subchapter.

18 (c) The Arkansas Pollution Control and Ecology Commission may by
19 regulation prescribe an annual permit fee on affected lands.

20
21 SECTION 3018. Arkansas Code § 15-57-320(e)(2) and (3), concerning
22 exemptions from the Arkansas Open-Cut Land Reclamation Act, are amended to
23 read as follows:

24 (2) In the event that authorization pursuant to section 404 of
25 the Federal Clean Water Act is determined by the United States Army Corps of
26 Engineers not to be required for a specific flood control or bank
27 stabilization project, the ~~Arkansas Department~~ Division of Environmental
28 Quality will review the proposed project plan using the Section 401 water
29 quality certification criteria.

30 (3) The ~~department~~ division shall provide the necessary
31 authorization for the project once it has been determined that the activity
32 will not adversely affect water quality.

33
34 SECTION 3019. Arkansas Code § 15-57-320(f)(1), concerning exemptions
35 from the Arkansas Open-Cut Land Reclamation Act, is amended to read as
36 follows:

1 (f)(1) All stream gravel mining operations on streams designated as
2 extraordinary resource waters after January 1, 1995, may continue to operate
3 under a permit issued by the ~~department~~ division for a period of two (2)
4 years from the date of the designation.

5
6 SECTION 3020. Arkansas Code § 15-57-402(5)-(7), concerning the
7 definition of "default", "department", and "director" under the Arkansas
8 Quarry Operation, Reclamation, and Safe Closure Act, are amended to read as
9 follows:

10 (5) "Default" means an operation that has uncorrected violations
11 of the requirements of this subchapter which allows the ~~Arkansas Department~~
12 Division of Environmental Quality to forfeit the bond to have the site
13 reclaimed as per the reclamation plan;

14 ~~(6) "Department" means the Arkansas Department of Environmental~~
15 ~~Quality or such department or other entity which may lawfully succeed to the~~
16 ~~powers and duties of the department;~~

17 ~~(7) "Director" means the executive head and active administrator~~
18 ~~of the Arkansas Department of Environmental Quality;~~

19
20 SECTION 3021. Arkansas Code § 15-57-402(9), concerning the definition
21 of "fee" under the Arkansas Quarry Operation, Reclamation, and Safe Closure
22 Act, is amended to read as follows:

23 (9) "Fee" means the notification or annual operating payment
24 made by the operator to the ~~department~~ division. The amount cannot be changed
25 except by legislative action. This fee will be payable on or before July 1
26 for all operating quarries in the current calendar year;

27
28 SECTION 3022. Arkansas Code § 15-57-402(14), concerning the definition
29 of "notification of intent" under the Arkansas Quarry Operation, Reclamation,
30 and Safe Closure Act, is amended to read as follows:

31 (14) "Notification of intent" is the operator's proper
32 notification to the ~~department~~ division of the operator's intent to open a
33 quarry, to temporarily close a quarry, to reactivate a quarry, and to shut
34 down an exhausted quarry;

35
36 SECTION 3023. Arkansas Code § 15-57-402(19), concerning the definition

1 of "reclamation plan" under the Arkansas Quarry Operation, Reclamation, and
2 Safe Closure Act, is amended to read as follows:

3 (19) "Reclamation plan" is a plan presented to the ~~department~~
4 division by an operator detailing the reclamation and revegetation of lands
5 affected by quarrying both contemporaneously and after the quarry is
6 exhausted, and required by this subchapter;

7

8 SECTION 3024. Arkansas Code § 15-57-403 is amended to read as follows:
9 15-57-403. Notification – Filing – Public notice and response.

10 (a) It shall be unlawful for any operator to engage in a quarrying
11 operation without first submitting to the ~~Arkansas Department~~ Division of
12 Environmental Quality a "notification of intent to quarry" or a "notification
13 of reactivated quarry" in accordance with this subchapter. The submittal,
14 with returned receipt, shall enable the operator to begin or continue
15 quarrying as long as the required reclamation bond is in force and proof of
16 public notification is included. An operator shall be deemed to be quarrying
17 from the time he or she begins start-up until reclamation is completed at the
18 exhausted quarry.

19 (b) Only new quarries or any land purchased or leased for a quarry
20 after January 1, 1997, will be subject to this subchapter.

21 (c) There will be no requirements for a "notification of intent" to be
22 filed with the ~~department~~ division for temporarily closed or exhausted
23 quarries in existence prior to January 1, 1998. These quarries will be exempt
24 from the requirements of this subchapter unless reactivated.

25 (d) A new notification of intent to quarry shall be required if a
26 change in the majority ownership of an operator occurs.

27 (e) Representatives of the ~~department~~ division may make regular site
28 visits to quarry operations, as necessary, to determine compliance with the
29 requirements of the operator's notification. On these visits the operator
30 will make his or her quarry operation accessible to the ~~department~~ division.

31 (f) Upon receipt of notifications of intent, the ~~department~~ division
32 will have ninety (90) days to respond to the operator by certified mail to
33 errors or omissions, or both, in the notifications.

34 (g) On completion of a notification, the ~~department~~ division will
35 issue the operator a notice which will be posted on quarry premises at all
36 times when the quarry is in operation and which will state:

1 "Name of company has completed the requirements, as set out by the 'Arkansas
2 Quarry Operation, Reclamation and Safe Closure Act' of 1997, and has the
3 unconditional authorization to quarry at this site, so long as the quarry is
4 in compliance with all laws and regulations for up to five (5) years."

5 (h) The ~~department~~ division, upon finding the operator to be out of
6 compliance with the requirements of his or her "notification" may issue
7 warnings, citations, and notices of default to the operator.

8 (i) All filings and other communication will be by certified mail.

9 (j)(1)(A) An operator will give notice to the public in a local
10 newspaper of general circulation that he or she intends to open or reactivate
11 a quarry.

12 (B)(i) The notification will be part of an operator's
13 intent and will be published in the newspaper at the same time the intent is
14 filed with the ~~department~~ division.

15 (ii) Proof of publication shall be provided to the
16 ~~department~~ division in the operator's notice of intent.

17 (C) The notification will indicate the approximate
18 location of the quarry using section, township, and range plus a road address
19 or identifiable local landmarks when possible, the date of start up and the
20 date the operator plans to temporarily close, if applicable, as well as the
21 operator's name, address, phone number, and contact person.

22 (D) The notification shall state that interested parties
23 may contact the ~~department~~ division for further information and that they
24 have ten (10) days after publication of the notice to notify the ~~department~~
25 division of any request for a public meeting.

26 (2)(A) If the ~~department~~ division receives at least five (5)
27 requests for a public meeting from owners of property within one-half ($\frac{1}{2}$)
28 mile of the quarry, it may require that the operator hold a public meeting.

29 (B) This public meeting shall be held within two (2) weeks
30 after the expiration of the ten-day public notice period.

31 (C) This public meeting shall be held in a location near
32 the proposed quarry to allow the public to discuss their interests with the
33 operator prior to start-up.

34 (3)(A) The operator will keep responses from the public on file
35 for two (2) years.

36 (B) The ~~department~~ division will forward responses it

1 receives to the operator.

2 (4) The operator will keep a record of all action taken
3 resulting from public responses for two (2) years, notifying the ~~department~~
4 division of each action.

5
6 SECTION 3025. Arkansas Code § 15-57-404(a)(1)-(5), concerning
7 notification of intent to quarry, are amended to read as follows:

8 (a)(1) Except for operators of quarries excluded by § 15-57-403(b),
9 any operator desiring to engage in quarrying shall complete a notification of
10 intent to quarry which when submitted to the ~~Arkansas Department~~ Division of
11 Environmental Quality by certified mail will entitle said operator to conduct
12 quarry operations.

13 (2)(A) For all active quarries, as of January 1, 1998, a
14 "notification of intent" must be on file or in process at the ~~department~~
15 division.

16 (B) For all new quarries to be opened after January 1,
17 1998, a notification of intent must be on file or in process at the
18 ~~department~~ division before the operator may begin quarry operations.

19 (3) The notification shall be accompanied by the payment of a
20 fee of two hundred fifty dollars (\$250).

21 (4) The submittal shall be an agreement between the operator and
22 the ~~department~~ division.

23 (5) The operator shall pay an annual fee to the ~~department~~
24 division in the amount of twenty-five dollars (\$25.00) per acre of affected
25 land, not to exceed one thousand dollars (\$1,000) per quarry.

26
27 SECTION 3026. Arkansas Code § 15-57-404(c) and (d), concerning
28 notification of intent to quarry, are amended to read as follows:

29 (c) All operators will have sixty (60) days to correct any errors or
30 omissions to a notification of intent if notified by the ~~department~~ division
31 that a notification of intent is incomplete.

32 (d) A fine of not more than one hundred dollars (\$100) per day, per
33 citation, may be levied against an operator whose notification of intent is
34 not completed and on file in the ~~department~~ division within sixty (60) days
35 after receipt of notice by the ~~department~~ division of errors and omissions in
36 the first filing. The maximum fine is five thousand dollars (\$5,000).

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SECTION 3027. The introductory language of Arkansas Code § 15-57-405(a), concerning the notification of a temporarily closed quarry, is amended to read as follows:

(a) Quarry sites in which operations are only occasionally conducted and in which the operator anticipates future quarry activity can be shut down on a temporary basis. If so, the operator will file a notification of temporarily closed quarry with the ~~Arkansas Department~~ Division of Environmental Quality, within thirty (30) days after an operation is closed. Full reclamation will not be required until no further additional quarrying is anticipated or the quarry is exhausted. All operational safeguards, as described in this subchapter, will remain in place as required until the quarry is exhausted. The notification of temporarily closed quarry will contain the following:

SECTION 3028. Arkansas Code § 15-57-405(b) and (c), concerning the notification of a temporarily closed quarry, are amended to read as follows:

(b) When an operator closes a quarry and fails to file a notification of temporarily closed quarry with the ~~department~~ division within sixty (60) days, the ~~department~~ division may levy a fine of not more than one hundred dollars (\$100) per day by citation until said notification is received. The maximum fine is five thousand dollars (\$5,000).

(c) If a notification of temporarily closed quarry is not received within ninety (90) days of the issuance of the citation, the ~~department~~ division may declare that the quarry is in default and require the operator to reclaim the site as per the bonding and reclamation requirements or the ~~department~~ division may forfeit the bond and issue a contract to have the site reclaimed as per the reclamation requirements.

SECTION 3029. Arkansas Code § 15-57-406 is amended to read as follows:
15-57-406. Notification of reactivated quarry.

Prior to resuming operation in a temporarily closed quarry, an operator will notify the ~~Arkansas Department~~ Division of Environmental Quality by certified mail with a notification of reactivated quarry. This notification will consist of the resubmittal of the notification of intent along with any modifications required, necessary by changed conditions at the quarry site.

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SECTION 3030. Arkansas Code § 15-57-407(a), concerning the refiling of a notification, is amended to read as follows:

(a) Every five (5) years all notifications of intent to quarry and of temporarily closed quarry must be refiled with the ~~Arkansas Department~~ Division of Environmental Quality by certified mail on or before the operator's anniversary date, with any modifications made necessary by changed conditions in the quarry site, such as changes in the affected acreage, majority ownership of the operator, changes in public roads and manmade structures adjacent to the quarry site, or new technology.

SECTION 3031. The introductory language of Arkansas Code § 15-57-408(a), concerning the notification of an exhausted quarry, is amended to read as follows:

(a) When a quarry becomes exhausted, the operator will notify the ~~Arkansas Department~~ Division of Environmental Quality by registered mail that the quarry is an exhausted quarry. This notification will contain the following:

SECTION 3032. Arkansas Code § 15-57-408(b)-(d), concerning the notification of an exhausted quarry, are amended to read as follows:

(b) If the operator fails to notify the ~~department~~ division of this change of status, the ~~department~~ division will notify the operator by citation. The operator will then have sixty (60) days to file said notification and commence with plans to reclaim quarry site as per the requirements of this subchapter.

(c) If the operator fails to file notification within the required sixty (60) days, the ~~department~~ division may levy a fine of one hundred dollars (\$100) per day by citation to the operator until notification is received by the ~~department~~ division. The maximum fine is five thousand dollars (\$5,000).

(d) If the operator fails to notify the ~~department~~ division within sixty (60) days and the fine is in effect, then the ~~department~~ division may declare the operator in default and order the operator to begin reclamation as required or the ~~department~~ division may forfeit bond and issue a contract to have the site reclaimed as per the reclamation plan.

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SECTION 3033. Arkansas Code § 15-57-409(a), concerning the reclamation of land at an exhausted quarry site, is amended to read as follows:

(a) When the quarry is exhausted, the planned reclamation of all affected lands at the quarry site will be completed by the operator, his or her subcontractor, or by the ~~Arkansas Department~~ Division of Environmental Quality once the bond has been forfeited.

SECTION 3034. Arkansas Code § 15-57-409(b)(2), concerning the reclamation of land at an exhausted quarry site, is amended to read as follows:

(2) All equipment, tools, manmade structures, and debris will be removed from affected lands or disposed of on property in a safe manner by mutual agreement between the operator and the landowner. The agreement will be on file at the operator's offices and sent to the ~~department~~ division with notification of exhausted quarry.

SECTION 3035. Arkansas Code § 15-57-409(b)(9) and (10), concerning the reclamation of land at an exhausted quarry site, are amended to read as follows:

(9) Quarry site reclamation must be completed through the first seeding within one (1) year for quarry sites of less than fifty (50) acres, within two (2) years for quarry sites of more than fifty (50) acres and less than one hundred (100) acres, and within three (3) years for quarry sites of more than one hundred (100) acres and less than two hundred (200) acres. This time requirement for sites larger than two hundred (200) acres may be modified, at the discretion of the ~~department~~ division, upon agreement with the operator.

(10) If an operator fails to begin reclamation during the first six (6) months after a quarry is exhausted, the ~~department~~ division will notify the operator by citation of the above violation. If an operator then fails to begin reclamation within sixty (60) days after receiving the notification, the ~~department~~ division may then issue a second citation. The second citation will be accompanied by a fine of not more than fifty dollars (\$50.00) per day until reclamation begins. If an operator's reclamation effort does not begin within sixty (60) days of the second citation and the

1 fine is in force for that period, then the ~~department~~ division will notify
2 the operator that the operation is in default. The ~~department~~ division will
3 then use the proceeds of the operator's forfeited bond to have the quarry
4 site reclaimed as per the reclamation plan.

5
6 SECTION 3036. Arkansas Code § 15-57-410(5), concerning quarry site
7 safety, is amended to read as follows:

8 (5) After January 1, 1998, no active quarry wall will be closer
9 than fifty feet (50') from any private property line unless written
10 permission is given by the adjacent property owner. Permission will be on
11 file at the operator's office and a copy will be sent to the ~~Arkansas~~
12 ~~Department~~ Division of Environmental Quality;

13
14 SECTION 3037. Arkansas Code § 15-57-410(10) and (11), concerning
15 quarry site safety, are amended to read as follows:

16 (10) If the ~~Arkansas Department of Environmental Quality~~
17 division finds the operator to be out of compliance with any of the
18 requirements of subdivisions (1), (2), and (3) of this section, a citation
19 will be given to the operator to comply within ninety (90) days. If the
20 operator fails to comply within the ninety-day time requirement or shows no
21 effort to comply, the ~~department~~ division may levy by citation a fine of not
22 more than one hundred dollars (\$100) per day until the operator complies with
23 said requirements. The maximum fine is five thousand dollars (\$5,000); and

24 (11) Any operator quarrying in violation of subdivisions (4) and
25 (5) of this section will be subject to an immediate assessment of a fine of
26 not more than one hundred dollars (\$100) per day or a shut down order by the
27 ~~Arkansas Department of Environmental Quality~~ division, or both. The order
28 will stay in effect at the discretion of the ~~Arkansas Department of~~
29 ~~Environmental Quality~~ division until the operator is no longer in violation.

30
31 SECTION 3038. Arkansas Code § 15-57-411 is amended to read as follows:
32 15-57-411. Complaints of violations of this subchapter.

33 (a) The operator is required to document and respond to complaints by
34 neighbors and citizens as they relate to the requirements of this subchapter.
35 A record of the complaints and responses will be kept on file at the quarry
36 office or company office for a minimum of two (2) years and sent to the

1 ~~Arkansas Department~~ Division of Environmental Quality.

2 (b) Any complaints received by the ~~department~~ division as they relate
3 to this subchapter will be forwarded to the operator. The operator's response
4 will be kept on file for future departmental review at the quarry office or
5 the company office for a minimum of two (2) years.

6 (c) The ~~department~~ division shall investigate complaints by neighbors
7 and citizens to determine if violations of this subchapter have occurred.

8

9 SECTION 3039. Arkansas Code § 15-57-412(b)(1), concerning quarry
10 bonds, is amended to read as follows:

11 (b)(1) As of January 1, 1998, the reclamation bond required for
12 acceptance of an operator's notice of intent to open a quarry, or to
13 reactivate a quarry, will be one thousand one hundred dollars (\$1,100) per
14 acre of affected land. The face value of the bond will be evaluated every
15 five (5) years by the operator and a representative of the ~~Arkansas~~
16 ~~Department~~ Division of Environmental Quality.

17

18 SECTION 3040. Arkansas Code § 15-57-412(e), concerning quarry bonds,
19 is amended to read as follows:

20 (e)(1) The operator may submit any of the following three (3) types of
21 bonds or substitute security:

22 (A) A surety bond;

23 (B) A collateral bond with supporting collateral
24 consisting of irrevocable letters of credit or certificates of deposit in
25 favor of the ~~department~~ division; and

26 (C) A self bond with an unencumbered right to certain
27 property to be held by the ~~department~~ division.

28 (2) Recommended bond forms shall be provided by the ~~department~~
29 division. A variation of the language in all but the self bond form may be
30 acceptable, provided the requirements of the subchapter and this Code are
31 incorporated and the ~~department~~ division approves the language.

32 (3) In the event self bonding is used, the following conditions
33 apply:

34 (A) The applicant must use the self bond form provided by
35 the ~~department~~ division;

36 (B) The collateral to be offered must be appraised by a

1 licensed appraiser approved by the operator and the ~~department~~ division;

2 (C) The operator must have unencumbered ownership of the
3 collateral and provide proof of such ownership to the ~~department~~ division;

4 (D) The value of the collateral as bond will be eighty
5 percent (80%) of the fair market value of the collateral as established by
6 the appraiser;

7 (E) Any collateral that decreases in value due to usage
8 (rolling stock) will be not be acceptable;

9 (F) In the event the collateral consists of real property,
10 an environmental audit of the area must be provided to the ~~department~~
11 division; and

12 (G) Where applicable, a lien will be filed against the
13 collateral until the affected area is reclaimed and released by the Arkansas
14 Pollution Control and Ecology Commission.

15
16 SECTION 3041. Arkansas Code § 15-57-413 is amended to read as follows:
17 15-57-413. Hearing.

18 An operator may request and obtain an adjudicatory hearing and review
19 by the Arkansas Pollution Control and Ecology Commission of any decision by
20 the Director of the ~~Arkansas Department~~ Division of Environmental Quality to
21 enforce the provisions of this subchapter, including any action to impose a
22 civil penalty, stop quarrying activities, or forfeit a bond. The decision of
23 the commission shall be final and may be appealed by the operator to the
24 circuit court of the county in which the quarry is located in accordance with
25 the Arkansas Code.

26
27 SECTION 3042. Arkansas Code § 15-57-414(a), concerning fees, fines,
28 and forfeiture amounts collected by the Arkansas Department of Environmental
29 Quality, is amended to read as follows:

30 (a) The ~~Arkansas Department~~ Division of Environmental Quality shall
31 collect fees, fines, and bond forfeiture amounts pursuant to this subchapter.

32
33 SECTION 3043. Arkansas Code § 15-57-414(c), concerning fees, fines,
34 and forfeiture amounts collected by the Arkansas Department of Environmental
35 Quality, is amended to read as follows:

36 (c) The ~~department~~ division shall use these funds pursuant to this

1 subchapter for contract awards for the reclamation of affected lands as
2 required by this subchapter.

3
4 SECTION 3044. Arkansas Code § 15-58-102(3), concerning legislative
5 findings under the Arkansas Surface Coal Mining and Reclamation Act of 1979,
6 is amended to read as follows:

7 (3) Because surface coal mining in this state takes place in
8 areas where the terrain, climate, biological, chemical, and other physical
9 conditions are peculiar to this state and because the ~~Arkansas Department~~
10 Division of Environmental Quality is familiar with these conditions, the
11 ~~department~~ division has the primary responsibility to develop, issue, and
12 enforce regulations for surface mining and reclamation operations in this
13 state pursuant to this chapter and in compliance with applicable federal laws
14 and regulations;

15
16 SECTION 3045. Arkansas Code § 15-58-104(4)-(6), concerning the
17 definitions of "department", "director", and "fund" under the Arkansas
18 Surface Coal Mining and Reclamation Act of 1979, are amended to read as
19 follows:

20 (4) "~~Department~~ Division" means the ~~Arkansas Department~~ Division
21 of Environmental Quality or any department, bureau, commission, or agency
22 that shall lawfully succeed to the powers and duties of that ~~department~~
23 division;

24 (5) "Director" means the executive head and active administrator
25 of the ~~Arkansas Department~~ Division of Environmental Quality;

26 (6) "Fund" means the Abandoned Mine Reclamation Fund
27 administered by the United States Secretary of the Interior pursuant to the
28 Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87. Moneys
29 from the fund may be received by the ~~department~~ division through a grant from
30 the United States Secretary of the Interior pursuant to the state abandoned
31 mine reclamation program;

32
33 SECTION 3046. Arkansas Code § 15-58-104(13) and (14), concerning the
34 definitions of "state program" and "state abandoned mine reclamation program"
35 under the Arkansas Surface Coal Mining and Reclamation Act of 1979, are
36 amended to read as follows:

1 (13) "State program" means a program established by the
2 ~~department~~ division and approved by the Secretary of the Interior pursuant to
3 section 503 of the Surface Mining Control and Reclamation Act of 1977, Pub.
4 L. No. 95-87, to regulate surface coal mining and reclamation operations on
5 lands within the state;

6 (14) "State abandoned mine reclamation program" means a plan
7 established by the ~~department~~ division and approved by the United States
8 Secretary of the Interior pursuant to Title IV of the Surface Mining Control
9 and Reclamation Act of 1977, Pub. L. No. 95-87, to reclaim mined areas of the
10 state which were left without adequate reclamation prior to August 3, 1977;
11

12 SECTION 3047. Arkansas Code § 15-58-201 is amended to read as follows:

13 15-58-201. ~~Department~~ Division – Jurisdiction, powers, and duties.

14 (a) The ~~Arkansas Department~~ Division of Environmental Quality is
15 designated as the official agency whose duty it is to establish policies and
16 guidelines, to administer the guidelines contained in this chapter, and to
17 institute other reasonable regulations and guidelines as they become
18 necessary pursuant to this chapter. The rules and regulations may provide
19 differing terms and provisions for particular conditions, particular mining
20 techniques, types of coal, particular areas of the state, surface mines, and
21 the surface impacts of underground mines or any other differences which
22 appear relevant and necessary so long as the action taken is consistent with
23 attainment of the general intent and purposes of this chapter.

24 (b) Exclusive jurisdiction over those aspects of surface coal mining
25 and reclamation operations in this state regulated by the Surface Mining
26 Control and Reclamation Act of 1977, Pub. L. No. 95-87, shall be vested in
27 the ~~department~~ division.
28

29 SECTION 3048. The introductory language of Arkansas Code § 15-58-
30 203(a), concerning the powers and duties of the Director of the Arkansas
31 Department of Environmental Quality, is amended to read as follows:

32 (a) The authority shall be vested in the Director of the ~~Arkansas~~
33 ~~Department~~ Division of Environmental Quality and such other persons as
34 designated by the director to administer and enforce the provisions of this
35 chapter. The director shall seek the accomplishment of the purposes of this
36 chapter by all practicable and economically feasible methods, and in doing

1 so, shall have the following duties and powers:

2

3 SECTION 3049. Arkansas Code § 15-58-203(a)(13), concerning the powers
4 and duties of the Director of the Arkansas Department of Environmental
5 Quality, is amended to read as follows:

6 (13) To contract upon such terms as the director may agree upon
7 for legal, financial, engineering, and other professional services necessary
8 to expedite the conduct of the affairs of the ~~Arkansas Department~~ Division of
9 Environmental Quality under the provisions of this chapter;

10

11 SECTION 3050. Arkansas Code § 15-58-205(a), concerning inspections by
12 the Director of the Arkansas Department of Environmental Quality under the
13 Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read
14 as follows:

15 (a) The Director of the ~~Arkansas Department~~ Division of Environmental
16 Quality shall require such monitoring and reporting, shall cause to be made
17 such inspections of any surface coal mining and reclamation operations, shall
18 require the maintenance of such signs and markers, and shall take such other
19 actions as are necessary to administer, enforce, and evaluate the
20 administration of this chapter and to meet the state program requirements.
21 For these purposes, the director or his or her authorized representatives,
22 upon presentation of appropriate identifying credentials, shall have a right
23 of entry to, upon, or through any surface coal mining and reclamation
24 operations and, at reasonable times and without delay, may have access to and
25 copy any records and inspect any monitoring equipment or method of operation
26 required under this chapter or the regulations issued pursuant to this
27 chapter.

28

29 SECTION 3051. Arkansas Code § 15-58-205(c)(2), concerning inspections
30 by the Director of the Arkansas Department of Environmental Quality under the
31 Arkansas Surface Coal Mining and Reclamation Act of 1979, is amended to read
32 as follows:

33 (2) Any person who is or may be adversely affected by a surface
34 coal mining operation may notify the director or the commission of any
35 failure on behalf of the ~~Arkansas Department~~ Division of Environmental
36 Quality to make proper inspections, after which the director, the commission,

1 or their authorized representatives shall determine whether adequate and
2 complete inspections have been made.

3
4 SECTION 3052. The introductory language of Arkansas Code § 15-58-
5 207(a), concerning procedures and notice of public hearings by the Director
6 of the Arkansas Department of Environmental Quality or the Arkansas Pollution
7 Control and Ecology Commission, is amended to read as follows:

8 (a) The Director of the ~~Arkansas Department~~ Division of Environmental
9 Quality or the Arkansas Pollution Control and Ecology Commission shall give
10 public notice of each of the following pending, proposed, or requested
11 actions:

12
13 SECTION 3053. Arkansas Code § 15-58-208(a), concerning an examiner to
14 preside at hearings designated by the Arkansas Pollution Control and Ecology
15 Commission or the Director of the Arkansas Department of Environmental
16 Quality, is amended to read as follows:

17 (a) For the purpose of receiving and responding to written comments
18 and objections and for presiding at a public hearing, the Arkansas Pollution
19 Control and Ecology Commission or the Director of the ~~Arkansas Department~~
20 Division of Environmental Quality may designate one (1) or more examiners.

21
22 SECTION 3054. Arkansas Code § 15-58-211(c), concerning adjudicatory
23 hearings and procedures of the Arkansas Pollution Control and Ecology
24 Commission, is amended to read as follows:

25 (c) Nothing in this chapter shall prohibit disposition of the matter
26 through an informal conference before the Director of the ~~Arkansas Department~~
27 Division of Environmental Quality if all parties agree, or disposition by
28 stipulation, settlement, consent order, or default.

29
30 SECTION 3055. Arkansas Code § 15-58-301(a), concerning cessation
31 orders and violations deemed not to cause imminent danger or harm, is amended
32 to read as follows:

33 (a) If the Director of the ~~Arkansas Department~~ Division of
34 Environmental Quality or his or her authorized representative determines on
35 the basis of an inspection or other available information that a permittee is
36 in violation of a requirement of this chapter or of the regulations issued

1 pursuant to this chapter or a permit condition required by this chapter or
2 the regulations issued pursuant to this chapter but the violation does not
3 create an imminent danger to the health or safety of the public or is not
4 causing or reasonably expected to cause significant imminent environmental
5 harm to land, air, or water resources, the director or his or her authorized
6 representative shall issue a notice of violation to the permittee or his or
7 her agent fixing a reasonable time, but not more than ninety (90) days, for
8 the abatement of the violation in accordance with the procedures set out in
9 regulations issued by the Arkansas Pollution Control and Ecology Commission
10 pursuant to this chapter.

11
12 SECTION 3056. Arkansas Code § 15-58-302(a), concerning cessation
13 orders deemed to cause danger or harm, is amended to read as follows:

14 (a) If the Director of the Arkansas Department Division of
15 Environmental Quality or his or her authorized representative determines, on
16 the basis of an inspection or other available information, that a condition
17 or practice exists or that a permittee is in violation of a requirement of
18 this chapter or of the regulations issued pursuant to this chapter or of a
19 permit condition required by this chapter or the regulations issued pursuant
20 to this chapter, and that this condition, practice, or violation also creates
21 an imminent danger to the health or safety of the public or is causing or can
22 reasonably be expected to cause significant imminent environmental harm to
23 land, air, or water resources, the director or his or her authorized
24 representative or agent shall immediately issue a cessation order in
25 accordance with the procedures set out in regulations issued by the Arkansas
26 Pollution Control and Ecology Commission pursuant to this chapter requiring
27 the immediate termination of all surface coal mining and reclamation
28 operations or the portion thereof relevant to the condition, practice, or
29 violation.

30
31 SECTION 3057. Arkansas Code § 15-58-303(a), concerning an order to
32 show cause and a pattern of violations found by the Director of the Arkansas
33 Department of Environmental Quality, is amended to read as follows:

34 (a) On the basis of an inspection, if the Director of the ~~Arkansas~~
35 ~~Department~~ Division of Environmental Quality or his or her authorized agent
36 has reason to believe that a pattern of violations of any requirements of

1 this chapter or the regulations issued pursuant to this chapter or any permit
2 conditions required by this chapter or by the regulations issued pursuant to
3 this chapter exists or has existed and if the director or his or her
4 authorized agent also finds that these violations are caused by the
5 unwarranted failure of the permittee to comply with requirements of this
6 chapter or permit conditions or that the violations are willfully caused by
7 the permittee, the director or his or her authorized agent shall issue to the
8 permittee forthwith an order to show cause as to why the permit should not be
9 suspended or revoked in accordance with the procedures set out in regulations
10 issued by the Arkansas Pollution Control and Ecology Commission pursuant to
11 this chapter.

12
13 SECTION 3058. Arkansas Code § 15-58-305 is amended to read as follows:

14 15-58-305. Interfering with the director or his or her agents -
15 Criminal penalties.

16 Any person who shall, except as permitted by law, willfully resist,
17 prevent, impede, or interfere with the Director of the ~~Arkansas Department~~
18 Division of Environmental Quality or any of his or her authorized
19 representatives in the performance of duties pursuant to this chapter shall
20 be guilty of a misdemeanor and may be punished upon conviction by a criminal
21 penalty of not more than five thousand dollars (\$5,000) or by imprisonment
22 for not more than one (1) year, or by both.

23
24 SECTION 3059. Arkansas Code § 15-58-308(a), concerning civil actions
25 and injunctions undertaken by the Arkansas Pollution and Ecology Commission
26 or the Director of the Arkansas Department of Environmental Quality, is
27 amended to read as follows:

28 (a) The Arkansas Pollution Control and Ecology Commission or the
29 Director of the ~~Arkansas Department~~ Division of Environmental Quality may
30 request the Attorney General or an attorney designated by the director to
31 institute without bond or other undertaking a civil action for relief against
32 a permittee or any person engaging in surface coal mining operations without
33 a permit, including an injunction, restraining order, or any other
34 appropriate order in the county in which any part of the surface coal mining
35 and reclamation operation involved is located, or in the county in which the
36 permittee has his or her principal office. No liability whatsoever shall

1 accrue to the commission, the director, or their authorized representatives
2 on taking any actions pursuant to this section.

3
4 SECTION 3060. Arkansas Code § 15-58-309(a)(2), concerning the private
5 right of action against the State of Arkansas under the Arkansas Surface Coal
6 Mining and Reclamation Act of 1979, is amended to read as follows:

7 (2) Against the Director of the ~~Arkansas Department~~ Division of
8 Environmental Quality or the Arkansas Pollution Control and Ecology
9 Commission where there is alleged a failure of the director or the commission
10 to perform any act or duty under this chapter which is not discretionary with
11 the director or with the commission.

12
13 SECTION 3061. Arkansas Code § 15-58-309(c)(2), concerning the private
14 right of action against the State of Arkansas under the Arkansas Surface Coal
15 Mining and Reclamation Act of 1979, is amended to read as follows:

16 (2) In any action under this section, the director, the
17 commission, or the ~~Arkansas Department~~ Division of Environmental Quality, if
18 not a party, may intervene as a matter of right.

19
20 SECTION 3062. Arkansas Code § 15-58-309(d)-(f), concerning the private
21 right of action against the State of Arkansas under the Arkansas Surface Coal
22 Mining and Reclamation Act of 1979, are amended to read as follows:

23 (d) The court, in issuing any final order in any action brought
24 pursuant to subsection (a) of this section, may award costs of litigation,
25 including attorney and expert witness fees, to any party whenever the court
26 determines the award is appropriate. If a temporary restraining order or
27 preliminary injunction is sought, the court may require the filing of a bond
28 or equivalent security, provided that no bond shall be required if the
29 temporary restraining order or preliminary injunction is sought by the
30 director, the commission, or the ~~department~~ division.

31 (e) Nothing in this section shall restrict any right which any person
32 or class of persons may have under any statute or common law to seek
33 enforcement of any of the provisions of this chapter and the regulations
34 thereunder or to seek any other relief, including relief against the
35 director, the commission, or the ~~department~~ division.

36 (f) Any person who is injured in his or her person or property through

1 the violation by any operation of any rule, regulation, order, or permit
2 issued pursuant to this chapter may bring an action for damages, including
3 reasonable attorney and expert witness fees only in the judicial district in
4 which the surface coal mining operation complained of is located. Nothing in
5 this subsection shall affect the rights established by or limits imposed
6 under the Workers' Compensation Law, § 11-9-101 et seq.

7
8 SECTION 3063. The introductory language of Arkansas Code § 15-58-
9 401(b), concerning lands and water eligible for reclamation or drainage
10 abatement expenditures, is amended to read as follows:

11 (b) Notwithstanding subsection (a) of this section, lands and water
12 similarly affected by coal mining or other mining processes and abandoned or
13 left in an inadequate reclamation status after August 3, 1977, are also
14 eligible for reclamation or drainage abatement expenditures under this
15 chapter if the Director of the ~~Arkansas Department~~ Division of Environmental
16 Quality makes either of the following findings:

17
18 SECTION 3064. The introductory language of Arkansas Code § 15-58-
19 404(a), concerning abatement of adverse effects, and liens regarding the
20 state abandoned mine reclamation program, is amended to read as follows:

21 (a) The Director of the ~~Arkansas Department~~ Division of Environmental
22 Quality or his or her authorized representative, under the state abandoned
23 mine reclamation program, shall make a finding of fact that:

24
25 SECTION 3065. Arkansas Code § 15-58-405(a), concerning the right of
26 entry for an approved state abandoned mine reclamation program, is amended to
27 read as follows:

28 (a) The Director of the ~~Arkansas Department~~ Division of Environmental
29 Quality or his or her authorized representative pursuant to an approved state
30 abandoned mine reclamation program shall have the right to enter upon any
31 property for the purpose of conducting studies or exploratory work to
32 determine the existence of adverse effects of past coal mining practices and
33 to determine the feasibility of restoration, reclamation, abatement, control,
34 or prevention of the adverse effects.

35
36 SECTION 3066. The introductory language of Arkansas Code § 15-58-

1 406(a), concerning condemnation of a mine by the Director of the Arkansas
2 Department of Environmental Quality, is amended to read as follows:

3 (a) The Director of the ~~Arkansas Department~~ Division of Environmental
4 Quality, personally or through his or her authorized legal representative,
5 pursuant to an approved state abandoned mine reclamation program, may acquire
6 for the state any land, by purchase, donation, or condemnation, which is
7 adversely affected by past coal mining practices if the director determines
8 that acquisition of such land is necessary to successful reclamation and
9 that:

10
11 SECTION 3067. Arkansas Code § 15-58-502(b), concerning the necessity
12 of a permit and application, is amended to read as follows:

13 (b) No person shall engage in or carry out on lands within the state
14 any surface coal mining operations unless that person has first obtained a
15 permit issued by the Director of the ~~Arkansas Department~~ Division of
16 Environmental Quality pursuant to this chapter and in accordance with the
17 regulations issued pursuant to this chapter.

18
19 SECTION 3068. Arkansas Code § 15-58-503(a)(3)(A), concerning the power
20 of the Arkansas Pollution Control and Ecology Commission under the Surface
21 Mining Control and Reclamation Act of 1977, is amended to read as follows:

22 (3)(A) The regulations shall specifically provide that all
23 applications shall include a determination of the probable hydrologic
24 consequences of the mining and reclamation operations, both on and off the
25 mine site, with respect to the hydrologic regime, quantity, and quality of
26 water in surface and groundwater systems, including the dissolved and
27 suspended solids under seasonal flow conditions and the collection of
28 sufficient data for the mine site and surrounding surface areas so that an
29 assessment can be made by the Director of the ~~Arkansas Department~~ Division of
30 Environmental Quality of the probable cumulative impacts of all anticipated
31 mining in the area upon the hydrology of the area and particularly upon water
32 availability. However, this determination shall not be required until
33 hydrologic information on the general area prior to mining is made available
34 from an appropriate federal or state agency. The permit shall not be approved
35 until the information is available and is incorporated into the application.

36

1 SECTION 3069. The introductory language of Arkansas Code § 15-58-
2 503(a)(3)(B), concerning the power of the Arkansas Pollution Control and
3 Ecology Commission under the Surface Mining Control and Reclamation Act of
4 1977, is amended to read as follows:

5 (B) The costs of the following activities, which shall be
6 performed by a qualified public or private laboratory or other public or
7 private qualified entity designated by the ~~Arkansas Department~~ Division of
8 Environmental Quality shall be borne, upon written request of the small
9 operator, by the ~~department~~ division in accordance with regulations issued by
10 the commission:
11

12 SECTION 3070. Arkansas Code § 15-58-503(a)(3)(B)(vii), concerning the
13 power of the Arkansas Pollution Control and Ecology Commission under the
14 Surface Mining Control and Reclamation Act of 1977, is amended to read as
15 follows:

16 (vii) The ~~department~~ division shall provide or
17 assume the cost of training small operators concerning the preparation of
18 permit applications and compliance with the regulatory program and shall
19 ensure that small operators are aware of the assistance available under this
20 subdivision (a)(2).
21

22 SECTION 3071. Arkansas Code § 15-58-503(a)(3)(C), concerning the power
23 of the Arkansas Pollution Control and Ecology Commission under the Surface
24 Mining Control and Reclamation Act of 1977, is amended to read as follows:

25 (C) A coal operator that has received assistance pursuant
26 to this subdivision (a)(2) shall reimburse the ~~department~~ division for the
27 cost of the services rendered if the director finds that the operator's
28 actual and attributed annual production of coal for all locations exceeds
29 three hundred thousand (300,000) tons during the twelve (12) months
30 immediately following the date on which the operator is issued the surface
31 coal mining and reclamation permit.
32

33 SECTION 3072. Arkansas Code § 15-58-503(c), concerning the power of
34 the Arkansas Pollution Control and Ecology Commission under the Surface
35 Mining Control and Reclamation Act of 1977, is amended to read as follows:

36 (c) The commission shall issue regulations to protect confidential

1 information which is submitted to the ~~department~~ division as part of a permit
2 application or pursuant to the coal exploration requirements.

3
4 SECTION 3073. Arkansas Code § 15-58-504(b), concerning coal
5 exploration operations, is amended to read as follows:

6 (b) Coal exploration regulations shall provide, at a minimum, that
7 prior to conducting any exploration under this subchapter, any person must
8 file with the ~~Arkansas Department~~ Division of Environmental Quality notice of
9 intention to explore, and that no operator shall remove more than two hundred
10 fifty (250) tons of coal pursuant to an exploration permit without the
11 specific written approval of the ~~department~~ division.

12
13 SECTION 3074. Arkansas Code § 15-58-508(a), concerning fees of the
14 Surface Coal Mining Operation Fund, is amended to read as follows:

15 (a) Each application for a surface coal mining permit or renewal of
16 that permit shall be accompanied by an initial application fee as determined
17 by the Director of the ~~Arkansas Department~~ Division of Environmental Quality
18 in accordance with a fee schedule which the Arkansas Pollution Control and
19 Ecology Commission shall develop and issue by regulations.

20
21 SECTION 3075. Arkansas Code § 15-58-508(d), concerning fees of the
22 Surface Coal Mining Operation Fund, is amended to read as follows:

23 (d) The ~~Arkansas Department~~ Division of Environmental Quality shall
24 maintain a separate Surface Coal Mining Operation Fund for the fees which may
25 only be used for the administration and enforcement of this chapter and as
26 the state's matching percentage share for any grants available to the state
27 for the administration and enforcement of the state program.

28
29 SECTION 3076. Arkansas Code § 15-58-509(a) and (b), concerning the
30 filing of performance bonds with the Arkansas Department of Environmental
31 Quality, are amended to read as follows:

32 (a) After a surface coal mining and reclamation permit application has
33 been approved but before the permit is issued, the applicant shall file a
34 bond with the ~~Arkansas Department~~ Division of Environmental Quality. This
35 bond shall be on a form furnished by the ~~department~~ division in accordance
36 with the regulations issued by the Arkansas Pollution Control and Ecology

1 Commission. It shall be for performance or acceptable alternative payable, as
2 appropriate, to the ~~department of~~ division and conditioned upon faithful
3 performance of all the requirements of this chapter, the regulations issued
4 pursuant to this chapter, and the permit.

5 (b) All forfeitures collected under this chapter shall be deposited
6 into a separate Mining Reclamation Trust Fund which shall be maintained by
7 the ~~department~~ division. The fund may only be used to accomplish reclamation
8 of land covered by forfeitures of performance bonds.

9

10 SECTION 3077. Arkansas Code § 15-58-509(e), concerning the filing of
11 performance bonds with the Arkansas Department of Environmental Quality, is
12 amended to read as follows:

13 (e) The amount of the bond shall be sufficient to assure the
14 completion of the reclamation plan if the work had to be performed by the
15 ~~department~~ division in the event of forfeiture. In no case shall the bond for
16 the entire area under one (1) permit be less than ten thousand dollars
17 (\$10,000).

18

19 SECTION 3078. Arkansas Code § 15-71-104(a)(1), concerning counsel for
20 the Oil and Gas Commission, is amended to read as follows:

21 (a)(1) The Oil and Gas Commission, with the approval of the Secretary
22 of the Department of Energy and Environment, may employ an attorney to
23 provide specialized professional services in matters requiring legal
24 representation.

25

26 SECTION 3079. Arkansas Code § 15-71-105(a) and (b), concerning the
27 Director of Production and Conservation, are amended to read as follows:

28 (a)(1) The Oil and Gas Commission may appoint one (1) Director of
29 Production and Conservation.

30 (2) The appointment under subdivision (a)(1) of this section is
31 with the approval of the Governor .

32 (3) The director serves at the pleasure of the Governor at the
33 salary set by law.

34 (4) The director shall report to the Secretary of the Department
35 of Energy and Environment.

36 (b) The commission and the Secretary of the Department of Energy and

1 Environment may authorize the director to employ other assistants, petroleum
2 and natural gas engineers, bookkeepers, auditors, gaugers, and stenographers
3 and other employees as necessary to properly administer and enforce the
4 provisions of this act.

5
6 SECTION 3080. Arkansas Code § 15-71-110(d)(16), concerning the powers
7 and duties of the Oil and Gas Commission, is amended to read as follows:

8 (16) To acquire primary enforcement responsibility either
9 singularly or jointly with the ~~Arkansas Department~~ Division of Environmental
10 Quality for the control of underground injection under the applicable
11 provisions of the Safe Drinking Water Act, Pub. L. No. 93-523, as it existed
12 on January 1, 2005;

13
14 SECTION 3081. Arkansas Code § 15-71-113(a), concerning the authority
15 to acquire and maintain unmarked cars, is amended to read as follows:

16 (a) In order to enable the Oil and Gas Commission to carry out its
17 duties in the most effective and efficient manner, the commission is
18 authorized, upon the approval of the Secretary of the Department of Energy
19 and Environment, to acquire and maintain for use by field personnel full-
20 sized sedan automobiles equipped with V-8 engines in the 350 cubic inch
21 displacement range, limited slip differentials, and vinyl seat covers.

22
23 SECTION 3082. Arkansas Code § 15-72-219(b)(1), concerning the
24 compensation of surface owners and surface tenants for damages and
25 restoration of land, is amended to read as follows:

26 (1) ~~Arkansas Department~~ Division of Environmental Quality; or
27

28 SECTION 3083. The introductory language of Arkansas Code § 15-72-
29 219(c), concerning the compensation of surface owners and surface tenants for
30 damages and restoration of land, is amended to read as follows:

31 (c) Any rules or regulations adopted by the ~~department~~ division or the
32 commission pertaining to spills of crude oil or produced water shall:

33
34 SECTION 3084. Arkansas Code § 15-72-219(f), concerning the
35 compensation of surface owners and surface tenants for damages and
36 restoration of land, is amended to read as follows:

1 (f) Nothing contained in this section is intended to limit or restrict
2 the rights of any surface owner or surface tenant to maintain a cause of
3 action for any damage to real property that is not addressed by the rules and
4 regulations adopted by the ~~department~~ division or the commission pertaining
5 to spills of crude oil or produced water.

6
7 SECTION 3085. Arkansas Code § 15-72-802(1), concerning the definition
8 of "assignment" under the Emergency Petroleum Set-Aside Act, is amended to
9 read as follows:

10 (1) "Assignment" means an action taken by the Arkansas Energy
11 Office of the ~~Arkansas Department~~ Division of Environmental Quality,
12 designating that a prime supplier of petroleum products supply them to an
13 authorized consumer, wholesale purchaser-consumer, or wholesale purchaser-
14 reseller to facilitate relief of emergency or hardship needs, pursuant to §
15 15-72-804;

16
17 SECTION 3086. Arkansas Code § 15-72-802(9), concerning the definition
18 of "set-aside" under the Emergency Petroleum Set-Aside Act, is amended to
19 read as follows:

20 (9) "Set-aside" means, with respect to a particular prime
21 supplier, the amount of a petroleum product which is made available from the
22 total supply of a prime supplier, pursuant to the provisions of § 15-72-804,
23 for utilization by the Arkansas Energy Office of the ~~Arkansas Department~~
24 Division of Environmental Quality to resolve emergencies and hardships due to
25 shortages or other dislocations in petroleum products distribution systems;
26 and

27
28 SECTION 3087. Arkansas Code § 15-72-804(a)(2), concerning the
29 establishment of the state emergency petroleum set-aside general provisions,
30 is amended to read as follows:

31 (2) The rules shall direct prime suppliers and brokers to set
32 aside a percentage of petroleum products that are delivered to suppliers in
33 the state for the Arkansas Energy Office of the ~~Arkansas Department~~ Division
34 of Environmental Quality to distribute to meet emergency and hardship needs.

35
36 SECTION 3088. Arkansas Code § 15-75-206 is amended to read as follows:

1 15-75-206. Personnel – Counsel.

2 (a)(1) The Liquefied Petroleum Gas Board shall appoint a Director of
3 the Liquefied Petroleum Gas Board to serve with the approval and at the
4 pleasure of the Governor.

5 (2) The director shall report to the Secretary of the Department
6 of Energy and Environment.

7 (b) The director shall have the authority, upon approval of the
8 secretary, to:

9 (1) Employ assistants, inspectors, and other personnel; and

10 (2) Retain counsel as may be necessary to aid it properly in the
11 administration of this subchapter, with the approval of the board.

12 (c)(1)(A) The director shall have the power and duty to receive
13 applications and to review and approve applications for all classes of
14 permits after applications and supporting papers have been on file for at
15 least thirty (30) days.

16 (B) The director may issue class one permits once all
17 conditions or prerequisites have been met as set out in § 15-75-307 and the
18 application has been approved by the board.

19 (C) The director may issue all class two through class ten
20 permits after all conditions and prerequisites have been met as set out in §§
21 15-75-308 – 15-75-317.

22 (2) The director may refuse to approve applications for permits
23 for safety reasons.

24 (d) The director's decisions on the approval of the applications for
25 class one permits shall be reviewed by the board at its next regularly
26 scheduled meeting.

27
28 SECTION 3089. Arkansas Code § 15-75-301(2), concerning the definition
29 of "director" under the Liquefied Petroleum Gas Board laws, is repealed.

30 ~~(2) "Director" means the Director of the Liquefied Petroleum Gas~~
31 ~~Board appointed by the board and serving with the approval and at the~~
32 ~~pleasure of the Governor; and~~

33
34 SECTION 3090. Arkansas Code § 15-76-324 is amended to read as follows:
35 15-76-324. ~~Arkansas Department~~ Division of Environmental Quality.

36 (a) Nothing contained in this subchapter shall affect the jurisdiction

1 of the ~~Arkansas Department~~ Division of Environmental Quality over owners or
2 producers of brine or the processing and disposal of brine with respect to
3 water or air pollution control or other matters within its jurisdiction or
4 the requirement that owners, producers, and processors apply for and obtain a
5 permit from the ~~department~~ division as provided by the Arkansas Water and Air
6 Pollution Control Act, as amended, § 8-4-101 et seq.

7 (b) Nothing contained in this subchapter confers upon the Arkansas
8 Pollution Control and Ecology Commission any authority or jurisdiction
9 conferred by law upon the ~~department~~ division or shall be deemed to amend the
10 Arkansas Water and Air Pollution Control Act, as amended, § 8-4-101 et seq.

11
12 SECTION 3091. Arkansas Code § 17-29-313(a)(2)(B)(ii)(b), concerning
13 the requirement of a permit to construct or operate a crematorium, is amended
14 to read as follows:

15 (b) A copy of the permit issued by the
16 ~~Arkansas Department~~ Division of Environmental Quality under § 8-4-203 to
17 construct the crematorium; and

18
19 SECTION 3092. Arkansas Code § 17-44-108(b)(2), concerning a license
20 requirement for all scrap metal recyclers, is amended to read as follows:

21 (2) Show proof of a required national pollution discharge
22 elimination system stormwater permit issued by the ~~Arkansas Department~~
23 Division of Environmental Quality; and

24
25 SECTION 3093. Arkansas Code § 18-15-1703(e)(2), concerning an
26 application and taking of real property, is amended to read as follows:

27 (2) Laws or rules within the jurisdiction of the State Health
28 Officer or regulatory activities of the Arkansas Pollution Control and
29 Ecology Commission, the ~~Arkansas Department~~ Division of Environmental
30 Quality, the Arkansas Livestock and Poultry Commission, the Arkansas Public
31 Service Commission, or the State Plant Board under delegated or authorized
32 programs or approved plans under federal law;

33
34 SECTION 3094. Arkansas Code § 19-5-930(b), concerning the Hazardous
35 Substance Remedial Action Trust Fund, is amended to read as follows:

36 (b) The Hazardous Substance Remedial Action Trust Fund shall consist

1 of all moneys appropriated by the General Assembly to the Hazardous Substance
2 Remedial Action Trust Fund, gifts, donations, interest earnings, fees on the
3 generation of hazardous waste, punitive damages, penalties, and any other
4 moneys legally designated, with the exception of those moneys deposited into
5 the Environmental Education Fund as set out in § 8-7-509(d), all moneys
6 received as penalties under §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301
7 – 8-4-313, 8-6-201 – 8-6-212, 8-6-213 [repealed], 8-6-214, 8-7-201 – 8-7-226,
8 8-7-504, and 20-27-1001 – 20-27-1007, and all punitive damages collected
9 under § 8-7-517, there to be administered by the Director of the ~~Arkansas~~
10 ~~Department~~ Division of Environmental Quality as provided in § 8-7-509.

11
12 SECTION 3095. Arkansas Code § 19-5-959(b), concerning the Petroleum
13 Storage Tank Trust Fund, is amended to read as follows:

14 (b) The Petroleum Storage Tank Trust Fund shall consist of the
15 petroleum environmental assurance fees as provided in § 8-7-906, all other
16 fees assessed under the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et
17 seq., gifts, grants, donations, such other funds made available by the
18 General Assembly, the excess of a reserve of two (2) months requirements of
19 debt service from fees in the Petroleum Storage Tank Trust Fund Revenue Bond
20 Debt Service Fund under § 15-5-1206 and any moneys recovered by the ~~Arkansas~~
21 ~~Department~~ Division of Environmental Quality which are attributable to
22 collections of civil penalties under § 8-7-806 or to costs under § 8-7-807
23 not owed the Regulated Substance Storage Tank Program Fund, there to be
24 administered by the Director of the ~~Arkansas Department~~ Division of
25 Environmental Quality, who shall make disbursements from the Petroleum
26 Storage Tank Trust Fund as authorized by the Petroleum Storage Tank Trust
27 Fund Act, § 8-7-901 et seq.

28
29 SECTION 3096. Arkansas Code § 19-5-961(b), concerning the Solid Waste
30 Management and Recycling Fund, is amended to read as follows:

31 (b) The fund shall consist of those special revenues specified in §§
32 19-6-301(154) and 19-6-301(240), reimbursement of funds pursuant to § 8-6-
33 610, federal funds which may become available, interest earnings, gifts,
34 donations, and any other funds made available by the General Assembly, there
35 to be administered by the ~~Arkansas Department~~ Division of Environmental
36 Quality as set out in the Solid Waste Management and Recycling Fund Act, § 8-

1 6-601 et seq.

2

3 SECTION 3097. Arkansas Code § 19-5-979(b), concerning the Landfill
4 Post-Closure Trust Fund, is amended to read as follows:

5 (b) The fund shall consist of those special revenues as specified in §
6 19-6-301(167), federal funds, interest earned, and any gifts or donations,
7 there to be used solely for the administration of and for landfill post-
8 closure corrective action as administered by the ~~Arkansas Department~~ Division
9 of Environmental Quality as set out in § 8-6-1001 et seq., and shall not be
10 appropriated for any other purpose.

11

12 SECTION 3098. Arkansas Code § 19-5-983(b)(2), concerning the Land
13 Reclamation Fund, is amended to read as follows:

14 (2) The fund shall be used for the reclamation of affected lands
15 as administered by the ~~Arkansas Department~~ Division of Environmental Quality
16 as set out in the Arkansas Open-Cut Land Reclamation Act, § 15-57-301 et
17 seq., and for contract awards for affected lands as required by the Arkansas
18 Quarry Operation, Reclamation, and Safe Closure Act, § 15-57-401 et seq.

19

20 SECTION 3099. Arkansas Code § 19-5-1027(b), concerning the
21 Environmental Education Fund, is amended to read as follows:

22 (b) The Environmental Education Fund shall consist of that portion of
23 moneys transferred, not to exceed two hundred seventy-five thousand dollars
24 (\$275,000) per fiscal year, from the Hazardous Substance Remedial Action
25 Trust Fund as set out in § 8-7-509, there to be used by the ~~Arkansas~~
26 ~~Department~~ Division of Environmental Quality to provide environmental
27 educational materials and training.

28

29 SECTION 3100. Arkansas Code § 19-5-1028(b), concerning the Abandoned
30 Mine Reclamation Fund, is amended to read as follows:

31 (b) The fund shall consist of moneys received through a grant from the
32 United States Secretary of the Interior pursuant to the State Abandoned Mine
33 Reclamation Program, there to be used by the ~~Arkansas Department~~ Division of
34 Environmental Quality for that program.

35

36 SECTION 3101. Arkansas Code § 19-5-1029(b), concerning the Surface

1 Coal Mining Operation Fund, is amended to read as follows:

2 (b) The fund shall consist of application and permit fees for surface
3 coal mining, there to be used by the ~~Arkansas Department~~ Division of
4 Environmental Quality only for the administration and enforcement of the
5 Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15-58-101 et
6 seq., and as the state's matching percentage share for any grants available
7 to the state for the administration and enforcement of the state program as
8 defined in § 15-58-104.

9

10 SECTION 3102. Arkansas Code § 19-5-1102(b), concerning the Performance
11 Partnership Trust Fund, is amended to read as follows:

12 (b) The Performance Partnership Trust Fund shall be used by the
13 ~~Arkansas Department~~ Division of Environmental Quality to defray the costs of
14 developing and implementing a management organization utilizing the
15 principles of the National Environmental Performance Partnership System,
16 advocated by the United States Environmental Protection Agency, which
17 integrates environmental indicators, management information, and performance-
18 based budgeting and accounting to measure agency performance.

19

20 SECTION 3103. Arkansas Code § 19-5-1105(b)(2), concerning the Small
21 Business Revolving Loan Fund, is amended to read as follows:

22 (2) The Small Business Revolving Loan Fund shall be administered
23 by the ~~Arkansas Department~~ Division of Environmental Quality and used
24 exclusively for those purposes set out in the Small Business Revolving Loan
25 Fund for Pollution Control and Prevention Technologies Act, § 8-5-801 et seq.

26

27 SECTION 3104. Arkansas Code § 19-5-1111 is amended to read as follows:
28 19-5-1111. ~~ADEQ~~ Environmental Settlement Trust Fund.

29 There is created on the books of the Treasurer of State, the Auditor of
30 State, and the Chief Fiscal Officer of the State, the "~~ADEQ~~ Environmental
31 Settlement Trust Fund" to consist of funds received by the State of Arkansas
32 pursuant to settlement agreements for environmental or natural resources
33 damages, interest earnings, and any other moneys designated to be deposited
34 into the fund, there to be administered by the Director of the ~~Arkansas~~
35 ~~Department~~ Division of Environmental Quality.

36

1 SECTION 3105. Arkansas Code § 19-5-1137 is amended to read as follows:
2 19-5-1137. ~~Arkansas Department~~ Division of Environmental Quality Fee
3 Trust Fund.

4 The ~~Arkansas Department~~ Division of Environmental Quality Fee Trust
5 Fund shall consist of those special revenues as specified in § 19-6-301(104),
6 there to be used to defray the costs of operating the ~~Arkansas Department~~
7 Division of Environmental Quality as set out in §§ 8-1-101 – 8-1-107.

8
9 SECTION 3106. Arkansas Code § 19-5-1140(c), concerning the Water
10 Performance Bond Fund, is amended to read as follows:

11 (c) The fund shall be used by the ~~Arkansas Department~~ Division of
12 Environmental Quality to hire a third-party contractor to:

13 (1) Take remedial action, including without limitation
14 corrective action, the closure of a nonmunicipal domestic sewage treatment
15 works, and any other action the Director of the ~~Arkansas Department~~ Division
16 of Environmental Quality determines to be necessary; or

17 (2) Maintain and operate a nonmunicipal domestic sewage
18 treatment works.

19
20 SECTION 3107. Arkansas Code § 19-5-1142(c), concerning the
21 Nonmunicipal Domestic Sewage Treatment Works Trust Fund, is amended to read
22 as follows:

23 (c)(1) The fund shall be used by the ~~Arkansas Department~~ Division of
24 Environmental Quality to ensure adequate operation, maintenance, and
25 completed closure of a nonmunicipal domestic sewage treatment works if the
26 Director of the ~~Arkansas Department~~ Division of Environmental Quality
27 determines that an owner or operator has not adequately operated, maintained,
28 or completed closure of the nonmunicipal domestic sewage treatment works.

29 (2) If the director determines that an owner or operator has not
30 adequately operated, maintained, or completed closure of the nonmunicipal
31 domestic sewage treatment works, the ~~department~~ division may use moneys in
32 the fund to hire a third-party contractor to:

33 (A) Take remedial action, including without limitation
34 corrective action;

35 (B) Initiate or complete the closure of a nonmunicipal
36 domestic sewage treatment works;

1 (C) Maintain and operate a nonmunicipal domestic sewage
2 treatment works; or

3 (D) Take any other action the director determines to be
4 necessary to carry out the purposes of this section and § 8-4-203(b).

5 (3) The fund may be used by the ~~Arkansas Department of~~
6 ~~Environmental Quality~~ division to do the following:

7 (A) Provide reimbursement to a nonmunicipal domestic
8 sewage treatment works under § 8-4-203(b);

9 (B) Provide technical support to nonmunicipal domestic
10 sewage treatment works to promote adequate operation, maintenance, or
11 completed closure of a facility; and

12 (C) Pay reasonable costs and expenses of the ~~department~~
13 division for administering the Nonmunicipal Domestic Sewage Treatment Works
14 Trust Fund.

15
16 SECTION 3108. Arkansas Code § 19-5-1148(b)(3)(C), concerning the Used
17 Tire Recycling Fund, is amended to read as follows:

18 (C) Seven percent (7%) deducted from the proceeds of fees
19 imposed under § 8-9-404 and deposited into the ~~Arkansas Department~~ Division
20 of Environmental Quality Fee Trust Fund under § 8-9-404(b)(1)(B), § 8-9-
21 404(c)(3)(A)(ii), and § 8-9-404(d)(7)(B).

22
23 SECTION 3109. Arkansas Code § 19-5-1148(c), concerning the Used Tire
24 Recycling Fund, is amended to read as follows:

25 (c)(1) At least ninety percent (90%) of the moneys available in the
26 Used Tire Recycling Fund each fiscal year shall be used by the ~~Arkansas~~
27 ~~Department~~ Division of Environmental Quality to provide reimbursements to
28 used tire programs, to administer the Used Tire Recycling and Accountability
29 Program, and to perform other duties under the Used Tire Recycling and
30 Accountability Act, § 8-9-401 et seq.

31 (2) The Director of the ~~Arkansas Department~~ Division of
32 Environmental Quality may use not more than ten percent (10%) of the moneys
33 available in the Used Tire Recycling Fund each fiscal year:

34 (A) For waste tire site abatement aid;

35 (B) For the development, implementation, and maintenance
36 of the electronic uniform used tire manifest system; and

1 (C) To provide market and economic stimulus incentives.

2
3 SECTION 3110. The introductory language of Arkansas Code § 19-5-
4 1217(b), concerning the Computer and Electronic Recycling Fund, is amended to
5 read as follows:

6 (b) The fund shall be administered by the ~~Arkansas Department~~ Division
7 of Environmental Quality and may be used to:

8
9 SECTION 3111. Arkansas Code § 19-5-1249(c), concerning the Alternative
10 Motor Fuel Development Fund, is amended to read as follows:

11 (c) The fund shall be used by the ~~Arkansas Department~~ Division of
12 Environmental Quality to provide rebates and incentives under the Arkansas
13 Alternative Motor Fuel Development Act, § 15-10-901 et seq.

14
15 SECTION 3112. Arkansas Code § 19-6-434 is amended to read as follows:
16 19-6-434. Hazardous Waste Permit Fund.

17 The Hazardous Waste Permit Fund shall consist of those special revenues
18 as specified in § 19-6-301(59) and (237) there to be used by the ~~Arkansas~~
19 ~~Department~~ Division of Environmental Quality to ensure the proper
20 administration and enforcement of §§ 8-7-201 – 8-7-226 and the Phase I
21 Environmental Site Assessment Consultant Act, § 8-7-1301 et seq.

22
23 SECTION 3113. Arkansas Code § 19-6-452 is amended to read as follows:
24 19-6-452. Asbestos Control Fund.

25 The Asbestos Control Fund shall consist of the special revenues
26 specified in § 19-6-301(130) and any other revenues authorized by law, there
27 to be used to administer and enforce a program for licensing contractors
28 engaged in the removal of friable asbestos materials from facilities by the
29 ~~Arkansas Department~~ Division of Environmental Quality under §§ 20-27-1001 –
30 20-27-1007.

31
32 SECTION 3114. Arkansas Code § 19-6-471 is amended to read as follows:
33 19-6-471. Marketing Recyclables Program Fund.

34 The Marketing Recyclables Program Fund shall consist of those special
35 revenues as specified in § 19-6-301(162), there to be used by the Compliance
36 Advisory Panel for the Marketing Recyclables Program for the administration

1 and performance of its duties, as administered by the ~~Arkansas Department~~
2 Division of Environmental Quality under § 8-9-201 et seq.

3
4 SECTION 3115. Arkansas Code § 19-11-1207(a), concerning the
5 administration of the Guaranteed Energy Cost Savings Act, is amended to read
6 as follows:

7 (a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
8 Environmental Quality shall administer this subchapter.

9
10 SECTION 3116. Arkansas Code § 20-80-302 is amended to read as follows:
11 20-80-302. Purpose.

12 (a) The purpose of this subchapter is to encourage nonprofit community
13 action organizations which have been formed to provide basic and essential
14 human services to low income and elderly citizens of Arkansas in the areas of
15 health, transportation, housing, home repair and weatherization, aging
16 programs and aging alternatives to institutionalization, developmental child
17 care and enrichment, youth opportunity programs, ~~low-income home energy~~
18 ~~assistance programs~~, and other related activities which the General Assembly
19 recognizes as beneficial to a large number of Arkansas citizens.

20 (b) It is further the purpose of this subchapter to encourage and
21 promote the operations and activities of community action agencies whether
22 the activities are conducted by one (1) agency or by two (2) or more
23 cooperating agencies.

24
25 SECTION 3117. Arkansas Code § 20-27-1001 is amended to read as
26 follows:

27 20-27-1001. Purpose.

28 The purpose of this subchapter is to protect the public health and
29 safety and the environment and to qualify the ~~Arkansas Department~~ Division of
30 Environmental Quality to adopt, administer, and enforce a program for
31 licensing training providers involved with the training of regulated asbestos
32 professionals, for licensing asbestos abatement consultants and asbestos
33 abatement contractors, and for certifying air monitors, contractor-
34 supervisors, inspectors, management planners, project designers, and workers
35 involved with demolitions, renovations, and asbestos-response actions in
36 which regulated asbestos-containing materials are disturbed in accordance

1 with this subchapter, the Arkansas Water and Air Pollution Control Act, § 8-
2 4-101 et seq., and regulations issued pursuant thereto.

3
4 SECTION 3118. Arkansas Code § 20-27-1003(6), concerning the definition
5 of "certificate" under the laws regarding removal of asbestos material, is
6 amended to read as follows:

7 (6) "Certificate" means a document issued by the ~~Arkansas~~
8 ~~Department~~ Division of Environmental Quality to any person certifying that
9 that person has satisfactorily completed asbestos training, examination, and
10 other requirements established by the ~~department~~ division to perform the
11 duties of the following:

- 12 (A) Air monitor;
13 (B) Contractor/supervisor;
14 (C) Inspector;
15 (D) Management planner;
16 (E) Project designer; and
17 (F) Worker;

18
19 SECTION 3119. Arkansas Code § 20-27-1003(9) and (10), concerning the
20 definition of "department" and "director" under the laws regarding removal of
21 asbestos material, are repealed.

22 ~~(9) "Department" means the Arkansas Department of Environmental~~
23 ~~Quality;~~

24 ~~(10) "Director" means the Director of the Arkansas Department of~~
25 ~~Environmental Quality;~~

26
27 SECTION 3120. Arkansas Code § 20-27-1003(15), concerning the
28 definition of "license" under the laws regarding removal of asbestos
29 material, is amended to read as follows:

30 (15) "License" means a document issued by the ~~department~~
31 Division of Environmental Quality to an asbestos abatement contractor,
32 asbestos abatement consultant, or training provider who meets the criteria
33 for licensing as established by the ~~department~~ division;

34
35 SECTION 3121. Arkansas Code § 20-27-1003(24), concerning the
36 definition of "training provider" under the laws regarding removal of

1 asbestos material, is amended to read as follows:

2 (24) "Training provider" means any person or other legal entity,
3 however organized, that conducts some or all of the training programs for
4 asbestos professional disciplines which are regulated by the ~~department~~
5 division; and

6
7 SECTION 3122. The introductory language of Arkansas Code § 20-27-1004,
8 concerning the powers and duties of the Arkansas Department of Environmental
9 Quality, is amended to read as follows:

10 The ~~Arkansas Department~~ Division of Environmental Quality shall be
11 charged with the responsibility of administering and enforcing this
12 subchapter and is given and charged with the following powers and duties:

13
14 SECTION 3123. Arkansas Code § 20-27-1005 is amended to read as
15 follows:

16 20-27-1005. Procedures.

17 The procedures of the ~~Arkansas Department~~ Division of Environmental
18 Quality and the Arkansas Pollution Control and Ecology Commission for
19 issuance of rules and regulations, conduct of hearings, notice, power of
20 subpoena, review of action on licenses, right of appeal, presumptions,
21 finality of actions, and related matters shall be as provided in the Arkansas
22 Water and Air Pollution Control Act, § 8-4-101 et seq., including, but not
23 limited to, §§ 8-4-205, 8-4-210, 8-4-212 – 8-4-214, and 8-4-218 – 8-4-229.

24
25 SECTION 3124. Arkansas Code § 20-27-1006 is amended to read as
26 follows:

27 20-27-1006. License required – Exceptions.

28 (a) Any asbestos abatement consultant or asbestos abatement contractor
29 shall obtain a license under this section from the ~~Arkansas Department~~
30 Division of Environmental Quality prior to actively engaging in any asbestos
31 demolition, renovation, or asbestos response action, and any training
32 provider shall obtain a license under this section from the ~~department~~
33 division before actively engaging in any asbestos training as provided by
34 this subchapter.

35 (b)(1) The application for license shall be made in the manner and
36 form required by the ~~department~~ division. An application for license or

1 renewal of a license shall be accompanied by proof of liability insurance
2 coverage in the form and amount required by the ~~department~~ division and proof
3 of training and examination as required by the ~~department~~ division.

4 (2) Training providers shall not be required to furnish proof of
5 liability insurance coverage under subdivision (b)(1) of this section.

6 (c)(1) The ~~department~~ division shall license all applicants for
7 licenses under this subchapter who satisfy the requirements of this
8 subchapter.

9 (2) Licenses shall be valid for a period of one (1) year.

10 (3) Licenses shall be renewable upon application and upon
11 satisfying the renewal requirements of the ~~department~~ division.

12 (d) State and federal governments and subdivisions thereof shall be
13 exempt, except for training providers, from the license requirements of this
14 section.

15
16 SECTION 3125. Arkansas Code § 20-27-1007(1), concerning prohibited
17 actions regarding asbestos, is amended to read as follows:

18 (1) To conduct:

19 (A) Asbestos response actions, demolitions, or renovations
20 without having first obtained a license from the ~~Arkansas Department~~ Division
21 of Environmental Quality when acting as an asbestos abatement consultant or
22 as an asbestos abatement contractor;

23 (B) Training without having first obtained a license from
24 the ~~department~~ division when acting as an asbestos training provider; or

25 (C) Asbestos response actions, demolitions, or renovations
26 without having first obtained certification from the ~~department~~ division when
27 acting as a clearance air monitor, contractor/supervisor, inspector,
28 management planner, project designer, or worker;

29
30 SECTION 3126. Arkansas Code § 20-27-1008(a), concerning the limitation
31 on grant funds of the Asbestos Abatement Grant Program, is amended to read as
32 follows:

33 (a) There is created within the ~~Arkansas Department~~ Division of
34 Environmental Quality the Asbestos Abatement Grant Program, which shall be
35 used to provide financial assistance to an eligible city or county to be used
36 exclusively for the purpose of one (1) or more stabilization and abatement

1 activities as provided in this subchapter.

2
3 SECTION 3127. Arkansas Code § 20-27-1009(a)(1), concerning grant
4 eligibility and distribution of grant funds from the Asbestos Abatement Grant
5 Program, is amended to read as follows:

6 (a)(1) A city or county with a population of less than fifty thousand
7 (50,000) according to the most recent federal decennial census may apply to
8 the ~~Arkansas Department~~ Division of Environmental Quality for grant funds to
9 be used under this subchapter.

10
11 SECTION 3128. The introductory language of Arkansas Code § 20-27-
12 1009(b), concerning grant eligibility and distribution of grant funds from
13 the Asbestos Abatement Grant Program, is amended to read as follows:

14 (b) To be eligible to receive grant funds under this subchapter, a
15 city or county shall certify the following information to the ~~department~~
16 division in the form required by the ~~department~~ division for grant
17 applications under this subchapter:

18
19 SECTION 3129. Arkansas Code § 20-27-1009(c), concerning grant
20 eligibility and distribution of grant funds from the Asbestos Abatement Grant
21 Program, is amended to read as follows:

22 (c) When the ~~department~~ division approves a grant application received
23 under this section, the ~~department~~ division shall distribute grant funds
24 based on the available moneys dedicated to the Asbestos Abatement Grant
25 Program in the Asbestos Control Fund according to procedures established by
26 the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

27
28 SECTION 3130. Arkansas Code § 20-27-1010(2), concerning costs eligible
29 for Asbestos Abatement Grant Program funds, is amended to read as follows:

30 (2) If the ~~Arkansas Department~~ Division of Environmental Quality
31 determines that an asbestos emergency exists that constitutes an immediate
32 threat to human health or the environment, the costs associated with the
33 stabilization and remediation of the emergency asbestos conditions.

34
35 SECTION 3131. The introductory language of Arkansas Code § 20-27-
36 1011(a), concerning the grant requirements and the return of unused funds

1 regarding the Asbestos Abatement Grant Program, is amended to read as
2 follows:

3 (a) Within thirty (30) days of receiving grant funds under this
4 subchapter, a city or county shall provide a report to the ~~Arkansas~~
5 ~~Department~~ Division of Environmental Quality that includes the following:
6

7 SECTION 3132. Arkansas Code § 20-27-1011(b)(1) and (2), concerning the
8 grant requirements and the return of unused funds regarding the Asbestos
9 Abatement Grant Program, are amended to read as follows:

10 (1) Notify the ~~department~~ division of the date the city or
11 county expects the stabilization and abatement activity to be complete; and

12 (2) Continue to report its progress to the ~~department~~ division
13 every fourteen (14) days until the approved stabilization and abatement
14 activity is complete and the requirements of this section are met.
15

16 SECTION 3133. Arkansas Code § 20-27-1011(c), concerning the grant
17 requirements and the return of unused funds regarding the Asbestos Abatement
18 Grant Program, is amended to read as follows:

19 (c)(1) A city or county that receives grant funds under this
20 subchapter shall immediately return to the ~~department~~ division any unused
21 portion of the grant funds when the stabilization and abatement activity is
22 complete.

23 (2) The ~~department~~ division shall deposit any unused grant funds
24 returned to the ~~department~~ division by a city or county under subdivision
25 (c)(1) of this section into the Asbestos Control Fund to be used exclusively
26 for the Asbestos Abatement Grant Program.
27

28 SECTION 3134. Arkansas Code § 20-27-1103(1), concerning an exception
29 for blasting conducted at a surface coal mine or if regulated by the Oil and
30 Gas Commission, is amended to read as follows:

31 (1) Blasting conducted at a surface coal mine regulated by the
32 ~~Arkansas Department~~ Division of Environmental Quality pursuant to the
33 Arkansas Surface Coal Mining and Reclamation Act of 1979, § 15-58-101 et
34 seq.; and
35

36 SECTION 3135. The introductory language of Arkansas Code § 22-3-

1 2003(b)(1), concerning the Sustainable Energy-Efficient Buildings Program, is
2 amended to read as follows:

3 (1) For public agencies, the Arkansas Energy Office of the
4 ~~Arkansas Department~~ Division of Environmental Quality shall develop and:

5
6 SECTION 3136. The introductory language of Arkansas Code § 22-3-
7 2006(a), concerning a program to manage the energy usage of public agencies,
8 is amended to read as follows:

9 (a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
10 Environmental Quality shall:

11

12 SECTION 3137. The introductory language of Arkansas Code § 22-3-
13 2006(b), concerning a program to manage the energy usage of public agencies,
14 is amended to read as follows:

15 (b) To implement its plan, the Arkansas Energy Office of the ~~Arkansas~~
16 ~~Department~~ Division of Environmental Quality shall to the extent funds are
17 available:

18

19 SECTION 3138. Arkansas Code § 22-3-2006(c), concerning a program to
20 manage the energy usage of public agencies, is amended to read as follows:

21 (c) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
22 Environmental Quality may adopt architectural and engineering standards to
23 implement this section.

24

25 SECTION 3139. Arkansas Code § 22-3-2007(4), concerning the application
26 of energy conservation plans to historic and unique buildings, is amended to
27 read as follows:

28 (4) A building that the Arkansas Energy Office of the ~~Arkansas~~
29 ~~Department~~ Division of Environmental Quality has exempted from this
30 subchapter because of its unique architectural characteristics or usage.

31

32 SECTION 3140. Arkansas Code § 22-3-2008 is amended to read as follows:

33 22-3-2008. Advisory committee for the Arkansas Energy Office of the
34 ~~Arkansas Department~~ Division of Environmental Quality.

35 (a)(1) The Director of the Arkansas Energy Office of the ~~Arkansas~~
36 ~~Department~~ Division of Environmental Quality shall create and recommend

1 members for a sustainable, energy-efficient building advisory committee
2 composed of:

3 (A) Representatives from the design and construction
4 industry who are involved in public works contracting;

5 (B) Persons from public agencies who are responsible for
6 overseeing public works projects or for developing energy efficiency programs
7 and policies; and

8 (C) Other persons that the Director of the Arkansas Energy
9 Office ~~of the Arkansas Department of Environmental Quality~~ considers to have
10 useful information.

11 (2)(A) The Director of the ~~Arkansas Department~~ Division of
12 Environmental Quality shall approve the creation and membership
13 recommendations under this section.

14 (B) The committee members shall serve at the pleasure of
15 the Director of the ~~Arkansas Department~~ Division of Environmental Quality.

16 (b) The committee shall provide advice on the implementation of this
17 subchapter, including without limitation recommendations regarding:

18 (1) An education and training process for persons who are
19 involved in the implementation of this subchapter;

20 (2) An ongoing evaluation or feedback process to help the
21 Arkansas Energy Office ~~of the Arkansas Department of Environmental Quality~~ to
22 implement this section; and

23 (3) Water-deficiency requirements and energy-efficiency
24 requirements.

25

26 SECTION 3141. The introductory language of Arkansas Code § 22-3-
27 2009(b), concerning regulations for energy conservation measures in public
28 buildings by the Arkansas Pollution Control and Ecology Commission, is
29 amended to read as follows:

30 (b) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
31 Environmental Quality shall:

32

33 SECTION 3142. The introductory language of Arkansas Code § 22-3-
34 2010(a), concerning a performance review and report by the Arkansas Energy
35 Office of the Arkansas Department of Environmental Quality, is amended to
36 read as follows:

1 (a) The Arkansas Energy Office of the ~~Arkansas Department~~ Division of
2 Environmental Quality, to the extent funds are available, shall conduct a
3 performance review of the Sustainable Energy-Efficient Buildings Program that
4 includes at least the following:

5
6 SECTION 3143. Arkansas Code § 22-3-2011(b), concerning the
7 applicability of energy conservation in public buildings, is amended to read
8 as follows:

9 (b)(1) The board of trustees of any institution of higher education
10 that is not included under subsection (a) of this section may be exempted
11 from the provisions of this subchapter by the ~~Department~~ Division of Higher
12 Education.

13 (2) Before granting an exemption to a board of trustees of an
14 institution of higher education under subdivision (b)(1) of this section, the
15 ~~department~~ Division of Higher Education shall review and approve the policies
16 and procedures to meet the specific performance criteria and goals for a
17 major facility or major renovation.

18
19 SECTION 3144. Arkansas Code § 22-3-2011(c)(1), concerning the
20 applicability of energy conservation in public buildings, is amended to read
21 as follows:

22 (1) Preclude an institution of higher education from adopting
23 the policies and technical guidelines for a major facility or a major
24 renovation that are established by the Arkansas Energy Office of the ~~Arkansas~~
25 ~~Department~~ Division of Environmental Quality under § 22-3-2003(b)(1); or
26

27 SECTION 3145. Arkansas Code § 22-5-807(a), concerning the notice and
28 recommendations from interested agencies regarding leases and permits, is
29 amended to read as follows:

30 (a) When an application for a lease or permit is filed with the
31 Commissioner of State Lands for the taking or production of any sand, gravel,
32 oil, natural gas, casinghead gas, coal, or other minerals or the severance of
33 any timber or logs from state-owned lands, the Commissioner of State Lands
34 shall so notify the Arkansas Geological Survey, the Arkansas Natural
35 Resources Commission, the Oil and Gas Commission, the Arkansas State Game and
36 Fish Commission, the Department of Parks, Heritage, and Tourism, the ~~Arkansas~~

1 ~~Department~~ Division of Environmental Quality, the Arkansas Forestry
2 Commission, and any other appropriate state agency that has or may have a
3 particular interest in the area proposed to be covered by the lease or
4 permit.

5

6 SECTION 3146. Arkansas Code § 23-2-101, concerning the membership of
7 the Arkansas Public Service Commission, is amended to add an additional
8 subsection to read as follows:

9 (f) The chair shall report to the Secretary of the Department of
10 Energy and Environment.

11

12 SECTION 3147. Arkansas Code § 23-2-105 is amended to read as follows:
13 23-2-105. Employees generally.

14 The Department of Energy and Environment may employ on behalf of the
15 Arkansas Public Service Commission ~~shall have power to employ during its~~
16 ~~pleasure~~ such officers, examiners, experts, engineers, statisticians,
17 accountants, attorneys, inspectors, clerks, and employees as ~~it~~ department
18 may deem necessary to carry out ~~its~~ the commissions proper function or to
19 perform the duties and exercise the powers conferred by law upon the
20 commission, as may be provided by appropriations of the General Assembly.

21

22 SECTION 3148. Arkansas Code § 23-2-106 is amended to read as follows:
23 23-2-106. Assistant general counsel.

24 There is established ~~in the Arkansas Public Service Commission~~ the
25 positions of two (2) assistant general counsel who shall be well-trained
26 attorneys to be employed by the Department of Energy and Environment on
27 behalf of the Arkansas Public Service Commission.

28

29 SECTION 3149. Arkansas Code § 23-2-107 is amended to read as follows:
30 23-2-107. Commissioners and employees – Activities restricted.

31 ~~(a) No person while~~ A person serving as a member ~~or employee~~ of the
32 Arkansas Public Service Commission, or an employee of the Department of
33 Energy and Environment working for the Arkansas Public Service Commission,
34 shall not practice or represent clients before any other agency of this state
35 which is engaged in the regulation of any business, profession, or trade.

36 ~~(b) Nor shall any person while~~ A person serving as a member ~~or~~

1 ~~employee~~ of the commission or an employee of the department shall not
2 represent any person, firm, corporation, or enterprise subject to the
3 regulatory jurisdiction of the commission in any proceeding before any court
4 or administrative body.

5
6 SECTION 3150. Arkansas Code § 23-2-108 is amended to read as follows:

7 23-2-108. Costs of operation and maintenance.

8 (a) All costs of operation and maintenance of the Arkansas Public
9 Service Commission shall be paid by vouchered warrants drawn against the
10 General Revenue Fund Account of the State Apportionment Fund in the State
11 Treasury from appropriations made for these purposes by the General Assembly.

12 (b)(1) The ~~commission~~ Department of Energy and Environment shall
13 designate one (1) of its officers or employees who is familiar with cost
14 accounting methods to keep an accurate record of that part of the cost of
15 operation and maintenance of the commission having to do with matters
16 relating to the regulation of public utilities, such costs hereafter referred
17 to as "utilities costs".

18 (2) In a similar manner, that officer or employee shall keep an
19 accurate record of that part of the cost of operation and maintenance of the
20 commission having to do with all matters other than those relating to the
21 regulation of public utilities.

22
23 SECTION 3151. Arkansas Code § 23-2-109 is amended to read as follows:

24 23-2-109. Expenses of commission.

25 All expenses incurred by the Arkansas Public Service Commission
26 pursuant to the provisions of this act, including the actual and necessary
27 traveling and other expenses and disbursements of the commissioners, ~~their~~
28 ~~officers, and employees~~ incurred while on business of the commission, shall
29 be paid from the funds provided for the use of the commission after being
30 approved by the commission.

31
32 SECTION 3152. Arkansas Code § 23-2-110 is amended to read as follows:

33 23-2-110. Payment of expenses and salaries.

34 (a) The expenses of the Arkansas Public Service Commission shall be
35 paid from the State Treasury on the warrant of the Auditor of State, and
36 subject to the approval of the Secretary of the Department of Energy and

1 Environment.

2 (b) The clerk of the commission shall make out an itemized account of
3 all the expenses incurred by the commission, fees paid for officials for
4 issuing and serving notices and process, witness fees, and any other expenses
5 actually paid and which are authorized by this act.

6 (c) The account shall be examined by the commission and the secretary
7 and approved by it if correct, and the account so approved shall be filed
8 with the Auditor of State.

9 (d) The Auditor of State shall issue his or her warrant on the
10 Treasurer of State for the amount of the account and deliver the warrant to
11 the clerk of the commission, and the Treasurer of State is authorized to pay
12 the warrant.

13

14 SECTION 3153. Arkansas Code § 23-2-111 is amended to read as follows:

15 23-2-111. Salaries and expenses – Time of payment.

16 (a) The salaries and expenses of the employees of the Department of
17 Energy and Environment working on behalf of the Arkansas Public Service
18 Commission shall be paid monthly upon certificate and vouchers, as required
19 by law.

20 (b) If it becomes necessary to pay for transportation, costs, or other
21 expenses of a similar nature during any current month, the payments may be
22 drawn in advance upon certificate of the commissioners. However, the payments
23 are to be embraced thereafter in the monthly statement to be made as required
24 by law, showing the expenses to have been paid.

25

26 SECTION 3154. Arkansas Code § 23-2-112 is amended to read as follows:

27 23-2-112. Rural and Community Liaison – General job responsibilities.

28 (a) The Rural and Community Liaison will serve as a two-way
29 communication link between the Arkansas Public Service Commission and utility
30 customers in Arkansas, particularly those in rural areas.

31 (b)(1) The liaison is responsible for:

32 (A) Providing information to communities and rural utility
33 customers concerning utility matters within the jurisdiction of the
34 commission; and

35 (B) Identifying questions and concerns that rural utility
36 customers may have concerning utility issues and relaying those concerns to

1 the members of the commission and to the commission staff.

2 (2) In the performance of these duties, the liaison will work
3 with stakeholders in rural areas and communities, including legislators,
4 civic and community leaders, customers and customer groups, and rural utility
5 personnel.

6 (c) The liaison shall be employed by the Secretary of the Department
7 of Energy and Environment.

8
9 SECTION 3155. Arkansas Code § 23-2-304(a)(11)(A)(i), concerning the
10 powers and duties of the Arkansas Public Service Commission, is amended to
11 read as follows:

12 (11)(A)(i) Propose, develop, solicit, approve, require,
13 implement, and monitor financial assistance programs for utility customers
14 who are sixty-five (65) years of age or older or who meet the income
15 eligibility qualifications of the Low Income Home Energy Assistance Program
16 administered by the ~~Department of Human Services~~ Arkansas Energy Office.

17
18 SECTION 3156. Arkansas Code § 23-3-405(a)(1)(B), concerning the
19 authority of the Arkansas Public Service Commission for rate changes and
20 exemptions, is amended to read as follows:

21 (B) The commission is authorized to order, require, promote, or
22 engage in energy conservation programs and measures for the benefit of
23 utility customers who are sixty-five (65) years of age or older or who meet
24 the income eligibility qualifications for the Low Income Home Energy
25 Assistance Program administered by the ~~Department of Human Services~~ Arkansas
26 Energy Office.

27
28 SECTION 3157. Arkansas Code § 23-18-506, is amended to read as
29 follows:

30 23-18-506. ~~Arkansas Department~~ Division of Environmental Quality's and
31 Arkansas Pollution Control and Ecology Commission's jurisdiction unaffected
32 by subchapter.

33 (a) This subchapter does not affect the:

34 (1) Jurisdiction of the ~~Arkansas Department~~ Division of
35 Environmental Quality or the Arkansas Pollution Control and Ecology
36 Commission with respect to water and air pollution control or other matters

1 within the jurisdiction of the ~~department~~ division or the Arkansas Pollution
2 Control and Ecology Commission; and

3 (2) Requirement that a person apply for and obtain a permit from
4 the ~~department~~ division as provided by the Arkansas Water and Air Pollution
5 Control Act, §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, and 8-4-301 – 8-4-313.

6 (b) This subchapter does not confer upon the Arkansas Public Service
7 Commission any authority or jurisdiction conferred by law upon the ~~department~~
8 division or the Arkansas Pollution Control and Ecology Commission.

9 (c) Notwithstanding the exemption provisions of § 23-18-504, each
10 major utility facility constructed in Arkansas is subject to the
11 environmental rules and regulations of the state and federal regulatory
12 bodies having jurisdiction over the air, water, and other environmental
13 impacts associated with the major utility facility.

14
15 SECTION 3158. Arkansas Code § 23-18-513(a)(7)(A), concerning service
16 and notice of an application for a certificate of environmental compatibility
17 and public need, is amended to read as follows:

18 (A) ~~Arkansas Department~~ Division of Environmental Quality;
19

20 SECTION 3159. Arkansas Code § 23-18-526 is amended to read as follows:
21 23-18-526. Powers of local governments and state agencies.

22 Notwithstanding any other provision of law, no municipality, local
23 government unit, or state department or agency, except the ~~Arkansas~~
24 ~~Department~~ Division of Environmental Quality as set out in § 23-18-506, may
25 require any approval, consent, permit, certificate, or other condition for
26 the construction, operation, or maintenance of a major utility facility
27 authorized by a certificate issued pursuant to the provisions of this
28 subchapter. Nothing in this subchapter shall prevent the application of state
29 laws for the protection of employees engaged in the construction, operation,
30 or maintenance of the major utility facility.

31
32 SECTION 3160. Arkansas Code § 23-112-614(c)(1), concerning auto
33 auction fees for salvage-titled or parts-only titled vehicles, is amended to
34 read as follows:

35 (1) Fifty percent (50%) for the ~~Arkansas Department~~ Division of
36 Environmental Quality to be used for inspection and oversight of auto

1 auctions to enforce all laws and rules administered by the ~~Arkansas~~
2 ~~Department~~ Division of Environmental Quality; and

3
4 SECTION 3161. Arkansas Code § 25-1-119(c)(2)(B), concerning services
5 and studies regarding mortality disparities, is amended to read as follows:

6 (B) ~~Arkansas Department~~ Division of Environmental Quality;

7
8 SECTION 3162. Arkansas Code § 25-1-119(d)(3), concerning services and
9 studies regarding mortality disparities, is amended to read as follows:

10 (3) The ~~Arkansas Department~~ Division of Environmental Quality;

11
12 SECTION 3163. Arkansas Code § 25-1-120(c)(2)(C), concerning
13 comprehensive cross-sector collaboration, is amended to read as follows:

14 (C) The ~~Arkansas Department~~ Division of Environmental
15 Quality;

16
17 SECTION 3164. Arkansas Code § 25-1-120(c)(2)(G), concerning
18 comprehensive cross-sector collaboration, is amended to read as follows:

19 (G) ~~Department~~ Division of Higher Education;

20
21 SECTION 3165. Arkansas Code § 25-11-103 is amended to read as follows:

22 25-11-103. Funds transfer to the Weatherization Assistance Program.

23 ~~The Department of Human Services~~ Division of Environmental Quality
24 shall transfer annually to the ~~Arkansas Department of Environmental Quality~~
25 Arkansas Energy Office of the Division of Environment Quality a minimum of
26 fifteen percent (15%) and up to a maximum of twenty-five percent (25%), as
27 allowed by federal law or regulation, of the annual allocation for the Low
28 Income Home Energy Assistance Program to be used by the Weatherization
29 Assistance Program of the Arkansas Energy Office of the ~~Arkansas Department~~
30 Division of Environmental Quality.

31
32 SECTION 3166. Arkansas Code § 25-14-101 is repealed.

33 ~~25-14-101. Creation Director Organization Personnel.~~

34 ~~(a) There is created the Arkansas Department of Environmental Quality.~~

35 ~~(b) The executive head of the Arkansas Department of Environmental~~
36 ~~Quality shall be the Director of the Arkansas Department of Environmental~~

1 ~~Quality. The director shall:~~

2 ~~(1) Be appointed by the Governor, with the consent of the~~
3 ~~Senate;~~

4 ~~(2) Be appointed after the Governor consults with the Arkansas~~
5 ~~Pollution Control and Ecology Commission; and~~

6 ~~(3) Serve at the pleasure of the Governor.~~

7 ~~(c)(1) The Arkansas Department of Environmental Quality shall consist~~
8 ~~of the divisions found in the Arkansas Pollution Control and Ecology~~
9 ~~Commission as of July 1, 1971, and any other divisions which may be created~~
10 ~~by law and placed under the Arkansas Department of Environmental Quality.~~

11 ~~(2) There shall be created a new Division of Environmental~~
12 ~~Preservation which shall be responsible for reviewing and making specific~~
13 ~~ecologically oriented recommendations on all plans, programs, and projects of~~
14 ~~all other state departments, divisions, agencies, and commissions and upon~~
15 ~~all federal plans, programs, and projects affecting this state. To this end,~~
16 ~~all other departments, divisions, agencies, and commissions within this state~~
17 ~~are directed to cooperate with the Arkansas Department of Environmental~~
18 ~~Quality in fulfilling the Arkansas Department of Environmental Quality's~~
19 ~~responsibility defined in this chapter.~~

20 ~~(3) Nothing in this subsection shall be construed to prevent the~~
21 ~~director, with the advice and consent of the Governor and the commission,~~
22 ~~from organizing the Arkansas Department of Environmental Quality into the~~
23 ~~divisions and units which may be necessary to effectively and efficiently~~
24 ~~administer the statutory responsibilities of the Arkansas Department of~~
25 ~~Environmental Quality.~~

26 ~~(d) The director, with the advice and consent of the Governor, shall~~
27 ~~appoint the heads of the respective divisions. All of the personnel of the~~
28 ~~Arkansas Department of Environmental Quality shall be employed by and serve at~~
29 ~~the pleasure of the director. Nothing in this section shall be so construed~~
30 ~~as to reduce any right which an employee in the Arkansas Department of~~
31 ~~Environmental Quality shall have under any civil service or merit system.~~

32 ~~(e) Each division of the Arkansas Department of Environmental Quality~~
33 ~~shall be under the direction, control, and supervision of the director. The~~
34 ~~director may delegate his or her functions, powers, and duties to various~~
35 ~~divisions of the Arkansas Department of Environmental Quality as he or she~~
36 ~~shall deem desirable and necessary for the effective and efficient operation~~

1 ~~of the Arkansas Department of Environmental Quality.~~

2
3 SECTION 3167. The introductory language of Arkansas Code § 25-34-
4 109(b), concerning the Computer and Electronic Recycling Fund, is amended to
5 read as follows:

6 (b) The fund shall be administered by the ~~Arkansas Department~~ Division
7 of Environmental Quality and may be used to:

8
9 SECTION 3168. Arkansas Code § 25-34-110(a), concerning the computer
10 and electronic equipment recycling grants, is amended to read as follows:

11 (a) Electronic equipment recycling grants must be awarded on the basis
12 of written grant-request proposals submitted to and approved by the ~~Arkansas~~
13 ~~Department~~ Division of Environmental Quality.

14
15 SECTION 3169. Arkansas Code § 26-51-506(c)(2)(B)(vi) and (vii),
16 concerning unused and carry forward tax credits for waste reduction, reuse,
17 or recycling equipment, are amended to read as follows:

18 (vi) Beginning July 1, 2016, by July 15 of each
19 year, the public retirement system with possession and control of the tax
20 credits under this subdivision (c)(2)(B) shall provide notice to the
21 Department of Finance and Administration of the amount of tax credits,
22 including tax credits pending certification by the ~~Arkansas Department~~
23 Division of Environmental Quality, subject to the limitations in subdivision
24 (c)(2)(B)(iii) of this section, to be sold or transferred for value.

25 (vii) The State of Arkansas shall pay the purchase
26 price equal to eighty percent (80%) of the face value of all of the tax
27 credits included in the notice required in subdivision (c)(2)(B)(vi) of this
28 section on or before June 30 of the year following the year in which the
29 notice was provided for all tax credits certified by the ~~Arkansas Department~~
30 Division of Environmental Quality by June 30 of the year following the year
31 in which the notice was provided by warrant from the Economic Development
32 Incentive Fund funded by a transfer from general revenue.

33
34 SECTION 3170. Arkansas Code § 26-51-506(c)(3)(D)(v) and (vi),
35 concerning eligibility for tax credits by a public retirement system for
36 waste reduction, reuse, or recycling equipment, are amended to read as

1 follows:

2 (v) Beginning July 1, 2020, by July 15 of each year,
3 the public retirement system with possession and control of the tax credits
4 under this subdivision (c)(3)(D) shall provide notice to the Department of
5 Finance and Administration of the amount of tax credits, including tax
6 credits expected to receive certification during the fiscal year by the
7 ~~Arkansas Department~~ Division of Environmental Quality, subject to the
8 limitations in subdivision (c)(3)(D)(iii) of this section, to be sold or
9 transferred for value.

10 (vi) The State of Arkansas shall pay the purchase
11 price equal to eighty percent (80%) of the face value of all of the tax
12 credits included in the notice required in subdivision (c)(3)(D)(v) of this
13 section on or before June 30 of the calendar year following the calendar year
14 in which the notice was provided for all tax credits certified by the
15 ~~Arkansas Department~~ Division of Environmental Quality by June 30 of the
16 calendar year following the calendar year in which the notice was provided by
17 warrant from the Economic Development Incentive Fund funded by a transfer
18 from general revenue.

19

20 SECTION 3171. Arkansas Code § 26-51-506(d), concerning the procedure
21 to claim tax credits for waste reduction, reuse, or recycling equipment, is
22 amended to read as follows:

23 (d) To claim the benefits of this section, a taxpayer must obtain a
24 certification from the Director of the ~~Arkansas Department~~ Division of
25 Environmental Quality certifying to the Revenue Division of the Department of
26 Finance and Administration that:

27 (1) The taxpayer is engaged in the business of reducing,
28 reusing, or recycling solid waste material for commercial purposes, whether
29 or not for profit;

30 (2) The machinery or equipment purchased is waste reduction,
31 reuse, or recycling equipment;

32 (3) The machinery or equipment is being used in the collection,
33 separation, processing, modification, conversion, treatment, or manufacturing
34 of products containing at least fifty percent (50%) recovered materials,
35 provided that at least ten percent (10%) of the recovered materials shall be
36 post-consumer waste; and

1 (4) The taxpayer has filed a statement with the director
2 acknowledging that the taxpayer will make a good faith effort to utilize
3 post-consumer waste generated in Arkansas as at least ten percent (10%) of
4 the post-consumer waste being used in the equipment, to the extent available
5 at a competitive price.

6
7 SECTION 3172. Arkansas Code § 26-51-506(f)(5), concerning eligibility,
8 timing and application for tax credits for waste reduction, reuse, or
9 recycling equipment, is amended to read as follows:

10 (5)~~(A)~~ This subsection shall apply to all credits which are
11 certified as a result of applications for certification filed with the
12 ~~Arkansas Department~~ Division of Environmental Quality on or after July 1,
13 1993.

14 ~~(B) This subsection shall not apply to credits which are~~
15 ~~certified as a result of applications for certification filed with the~~
16 ~~Arkansas Department of Environmental Quality prior to July 1, 1993.~~

17 ~~(C) Taxpayers who file written notice and a project plan~~
18 ~~with the Arkansas Department of Environmental Quality prior to July 1, 1993,~~
19 ~~shall be deemed to have filed an application for certification for purposes~~
20 ~~of this subdivision (f)(5), provided that all the information necessary to~~
21 ~~complete the application for certification is provided to the Arkansas~~
22 ~~Department of Environmental Quality on or before December 31, 1993.~~

23
24 SECTION 3173. Arkansas Code § 26-51-506(k)(1)(A), concerning the
25 authority of the Arkansas Department of Environmental Quality to promulgate
26 rules for eligibility for a tax credit for waste reduction, reuse, or
27 recycling equipment, is amended to read as follows:

28 (k)(1)(A) The ~~Arkansas Department~~ Division of Environmental Quality
29 and the ~~division~~ Revenue Division of the Department of Finance and
30 Administration shall promulgate rules or regulations as are necessary to
31 administer this section.

32
33 SECTION 3174. Arkansas Code § 26-51-511(a)(1)(B), concerning coal
34 mining, producing, and extracting, is amended to read as follows:

35 (B) A holder of a valid mining permit issued by the
36 ~~Arkansas Department~~ Division of Environmental Quality to allow surface or

1 highwall mining;

2

3 SECTION 3175. Arkansas Code § 26-51-511(d)(3)(A), concerning coal
4 mining, producing, and extracting, is amended to read as follows:

5 (3)(A) The coal mining enterprise and the eligible transferee
6 shall jointly file a copy of the written credit transfer agreement with the
7 ~~Director~~ Secretary of the Department of Finance and Administration within
8 thirty (30) days of the credit transfer.

9

10 SECTION 3176. The introductory language of Arkansas Code § 26-51-
11 1215(d)(2), concerning tax credits for waste reduction, reuse, or recycling
12 equipment, is amended to read as follows:

13 (2) Obtain a certification from the Director of the ~~Arkansas~~
14 ~~Department~~ Division of Environmental Quality certifying to the Revenue
15 Division of the Department of Finance and Administration that:

16

17 SECTION 3177. Arkansas Code § 26-51-1503(3)(A), concerning the
18 definition of "committee" under the Arkansas Private Wetland and Riparian
19 Zone Creation, Restoration, and Conservation Tax Credits Act, is amended to
20 read as follows:

21 (A) The directors, or their designees, of:

22 (i) ~~The Arkansas Forestry Commission;~~

23 ~~(ii)~~ The Arkansas State Game and Fish Commission;

24 ~~(iii)~~ (ii) The Department of Finance and

25 Administration;

26 ~~(iv)~~ (iii) The ~~Department~~ Division of Arkansas

27 Heritage; and

28 ~~(v)~~ (iv) The ~~Arkansas Department~~ Division of

29 Environmental Quality; and

30

31 SECTION 3178. Arkansas Code § 26-52-401(36), concerning various
32 products and services exempted from certain taxes, is amended to read as
33 follows:

34 (36) Gross receipts or gross proceeds derived from the sale of:

35 (A) Fuel packaging materials to a person engaged in the

36 business of processing hazardous and nonhazardous waste materials into fuel

1 products at a facility permitted by the ~~Arkansas Department~~ Division of
2 Environmental Quality for hazardous waste treatment; and

3 (B) Machinery and equipment, including analytical
4 equipment and chemicals used directly in processing and packaging of
5 hazardous and nonhazardous waste materials into fuel products at a facility
6 permitted by the ~~Arkansas Department~~ Division of Environmental Quality for
7 hazardous waste treatment;

8
9 SECTION 3179. Arkansas Code § 27-101-405(a)(2), concerning the
10 establishment of the Marine Sanitation Advisory Committee, is amended to read
11 as follows:

12 (2) Two (2) members from the state at large to be appointed by
13 the Governor after consulting with the ~~Director~~ Secretary of the Department
14 of Health and the Director of the ~~Arkansas Department~~ Division of
15 Environmental Quality; and

16
17 SECTION 3180. Arkansas Code § 27-101-410 is amended to read as
18 follows:

19 27-101-410. Cooperation with federal agencies.

20 The Department of Health, the ~~Arkansas Department~~ Division of
21 Environmental Quality, and the Arkansas State Game and Fish Commission shall
22 pursue cooperative agreements with all appropriate federal agencies to ensure
23 the proper disposal of marine sewage in Arkansas.

24
25 SECTION 3181. Arkansas Code Title 25, Chapter 43, is amended to add an
26 additional subchapter to read as follows:

27 Subchapter 7 – Department of Finance and Administration

28
29 25-43-701. Department of Finance and Administration.

30 There is created the Department of Finance and Administration as a
31 cabinet-level department.

32
33 25-43-702. State entities transferred to Department of Finance and
34 Administration.

35 (a) The administrative functions of the following state entities are
36 transferred to the Department of Finance and Administration by a cabinet-

1 level transfer:

2 (1) The Alcoholic Beverage Control Division, created under § 25-
3 8-101;

4 (2) The Assessment Coordination Department, created under § 25-
5 28-101, now to be known as the Assessment Coordination Division;

6 (3) The Arkansas Tobacco Control Board, created under § 26-57-
7 255;

8 (4) Arkansas Tobacco Control, created under § 26-57-257;

9 (5) The Arkansas Racing Commission, created under § 23-110-201;

10 (6) The Department of Finance and Administration, created under
11 § 25-8-101;

12 (7) The Medical Marijuana Commission, created under Arkansas
13 Constitution, Amendment 98, § 19;

14 (8) The Office of the Arkansas Lottery, created under § 23-115-
15 201;

16 (9) The Office of Motor Vehicle, created under § 27-14-401;

17 (10) The Office of Driver Services, created under § 27-16-402;

18 and

19 (11) The Office of Child Support Enforcement, created under § 9-
20 14-206.

21 (b) Unless otherwise provided by law, a cabinet-level department
22 transfer under subsection (a) of this section includes all state entities
23 under a state entity transferred to the Department of Finance and
24 Administration under subsection (a) of this section, including without
25 limitation a division, office, program, or other unit of a state entity
26 transferred to the Department of Finance and Administration under subsection
27 (a) of this section.

28 (c) Unless otherwise provided by law, a state entity whose
29 administrative functions have been transferred to the Department of Finance
30 and Administration under subsection (a) of this section shall otherwise
31 continue to exercise the duties of the state entity under the administration
32 of the cabinet-level Department of Finance and Administration in the same
33 manner as before the creation of the cabinet-level department.

34

35 25-43-703. Secretary of the Department of Finance and Administration.

36 (a) The executive head of the Department of Finance and Administration

1 shall be the Secretary of the Department of Finance and Administration.

2 (b) The secretary shall be appointed by the Governor, subject to
3 confirmation by the Senate, and shall serve at the pleasure of the Governor.

4 (c) Each division of the department shall be under the direction,
5 control, and supervision of the secretary.

6 (d) The secretary may delegate his or her functions, powers, and
7 duties to various divisions or employees of the department as he or she shall
8 deem desirable and necessary for the effective and efficient operation of the
9 department.

10 (e) The secretary may, unless otherwise provided by law:

11 (1) Hire department personnel;

12 (2) Perform or assign duties assigned to the department; and

13 (3) Serve as the director, or the administrative or executive
14 head, of any state entity under the administrative control of the department
15 if the secretary also meets all statutory requirements for the position.

16
17 SECTION 3182. Arkansas Code § 2-9-106(c), concerning the Arkansas
18 Catfish Promotion Board's list of commercial producers who are entitled to
19 vote in referenda, is amended to read as follows:

20 (c) The ~~Director~~ Secretary of the Department of Finance and
21 Administration shall be reimbursed from funds collected for the costs of
22 holding referenda.

23
24 SECTION 3183. Arkansas Code § 2-9-107(c)(1), concerning the Arkansas
25 Catfish Board's vote on the levy of an assessment on the sale of catfish
26 feed, is amended to read as follows:

27 (c)(1) The assessment imposed and levied by this section shall be
28 collected by the ~~Director~~ Secretary of the Department of Finance and
29 Administration from each seller of catfish feed, who shall add the assessment
30 to the purchase price of catfish feed sold in this state to commercial
31 catfish producers.

32
33 SECTION 3184. Arkansas Code § 2-9-109(a)(3), concerning catfish
34 assessment records, is amended to read as follows:

35 (3) The records shall be preserved for a period of two (2) years
36 and shall be offered for inspection at any time upon written demand by the

1 ~~Director~~ Secretary of the Department of Finance and Administration or his or
2 her authorized agent or representative.

3
4 SECTION 3185. Arkansas Code § 2-9-109(b), concerning catfish
5 assessment records, is amended to read as follows:

6 (b)(1) At such times as the ~~director~~ secretary may require, every
7 person required to pay the assessment provided for in this chapter shall
8 submit reports or otherwise document any information deemed necessary for the
9 efficient collection of the assessment imposed in this chapter.

10 (2) The ~~director~~ secretary has the power to cause any authorized
11 agent or representative to enter upon the premises of any person required to
12 pay the assessment provided for in this chapter and examine or cause to be
13 examined by the agent any books, papers, and records which deal in any way
14 with the payment of the assessment or enforcement of the provisions of this
15 chapter.

16
17 SECTION 3186. Arkansas Code § 2-9-110 is amended to read as follows:
18 2-9-110. Assessment refund.

19 (a) So long as the assessment on the sale of catfish feed continues to
20 be levied as provided in this chapter, any catfish producer may request and
21 receive a refund of such assessment, provided he or she makes a written
22 application therefor with the ~~Director~~ Secretary of the Department of Finance
23 and Administration within sixty (60) calendar days after the date of sale,
24 supported by copies of sales slips from the seller of the catfish feed and a
25 refund form approved by the Arkansas Catfish Promotion Board.

26 (b) The ~~director~~ secretary shall create and approve a refund claim
27 form.

28
29 SECTION 3187. Arkansas Code § 2-9-111 is amended to read as follows:
30 2-9-111. Penalty.

31 (a)(1) Any seller who fails to file a report, collect an assessment,
32 or remit any assessment when due shall pay a penalty not to exceed five
33 percent (5%) of the amount of the assessment that should have been collected
34 or remitted, plus an additional penalty not to exceed one percent (1%) of the
35 amount of the assessment that should have been collected or remitted for each
36 month of delay, or fraction of a month, after the first month the report was

1 required to be filed or the assessment became due.

2 (2) The penalty shall be paid to the ~~Director~~ Secretary of the
3 Department of Finance and Administration and shall be disposed of in the same
4 manner as funds derived from the payment of an assessment as provided in this
5 chapter.

6 (b) The ~~director~~ secretary shall collect the penalties levied in this
7 section, together with the delinquent assessment, by any or all of the
8 following methods:

9 (1) Voluntary payment; or

10 (2) Legal proceedings instituted in a court of competent
11 jurisdiction seeking any remedies available, including, but not limited to,
12 injunctive relief to enjoin any seller owing the assessment or penalties from
13 engaging in business as a seller of catfish feed until the amount of the
14 assessment due and all penalties are paid.

15 (c) Any person required to pay the assessment provided for in this
16 chapter who refuses to allow full inspection of the premises or any book,
17 record, or other document relating to the liability of the person for the
18 assessment imposed or who shall hinder or in any way delay or prevent the
19 inspection shall be guilty of a violation punishable by a fine not exceeding
20 five hundred dollars (\$500).

21

22 SECTION 3188. Arkansas Code § 2-20-403 is amended to read as follows:

23 2-20-403. Penalties.

24 (a)(1) Any first purchaser or other person required to pay an
25 assessment under this subchapter who fails to pay any assessment when due
26 shall forfeit a penalty of two percent (2%) of the assessment each month
27 beginning the day following the date the assessment was due.

28 (2) The penalty shall be paid to the Arkansas Soybean Promotion
29 Board or to its designee, the ~~Director~~ Secretary of the Department of Finance
30 and Administration, and shall be disposed of in the same manner as funds
31 derived from the payment of an assessment as provided in this subchapter.

32 (b) The board or its designee shall collect the penalty levied in this
33 section, together with the delinquent assessment, by any and all of the
34 following methods:

35 (1) Voluntary payment by the person liable;

36 (2) Legal proceedings instituted in a court of competent

1 jurisdiction; or

2 (3) Injunctive relief to enjoin any person owing the assessment
3 or penalty from operating his or her business or engaging in business as a
4 buyer or seller of soybeans until the delinquent assessment or penalty is
5 paid.

6 (c)(1) Any person required to pay the assessment provided for in this
7 subchapter who refuses to allow full inspection of the premises or any book,
8 record, or other document relating to the liability of the person for the
9 assessment imposed or who shall hinder or in any way delay or prevent the
10 inspection shall be guilty of a violation.

11 (2) Upon conviction, an offender shall be punished by a fine not
12 exceeding five hundred dollars (\$500).

13

14 SECTION 3189. Arkansas Code § 2-20-405(a)(3), concerning the powers of
15 the Arkansas Soybean Promotion Board, is amended to read as follows:

16 (3) To collect assessments paid on soybeans marketed within the
17 state and to establish procedures for ensuring compliance with regard to the
18 payment of such assessments; provided, that the Arkansas Soybean Promotion
19 Board may designate the ~~Director~~ Secretary of the Department of Finance and
20 Administration to collect assessments and ensure compliance with regard to
21 the payment of such assessments, subject to such rules as may be promulgated
22 by the Arkansas Soybean Promotion Board and as may be reasonably necessary to
23 comply with the Soybean Promotion, Research and Consumer Information Act of
24 1990;

25

26 SECTION 3190. Arkansas Code § 2-20-406(a)(1), concerning assessments
27 on Arkansas-grown soybeans, is amended to read as follows:

28 (a)(1) Except as otherwise prescribed by regulations approved by the
29 United States Secretary of Agriculture or the Arkansas Soybean Promotion
30 Board, each person purchasing from, and making payment to, a producer for
31 soybeans produced by such producer and marketed for commercial use,
32 including, in any case in which soybeans are pledged as collateral for a loan
33 issued under any federal price support loan program, the Commodity Credit
34 Corporation, shall be a first purchaser and shall collect an assessment from
35 the producer, and each producer shall pay such assessment to the first
36 purchaser, at the applicable rate prescribed in this section. Each first

1 purchaser shall remit such assessment to the board or to its designee, the
2 ~~Director~~ Secretary of the Department of Finance and Administration. For the
3 purpose of this section, purchases from a producer of soybeans or contracts
4 with a producer for production of soybeans for livestock feed or any other
5 application shall constitute marketing for commercial use.

6
7 SECTION 3191. Arkansas Code § 2-20-406(c)(1), concerning assessments
8 on Arkansas-grown soybeans, is amended to read as follows:

9 (c)(1) The proceeds of the assessment shall be deposited with the
10 Treasurer of State in a special fund to be established for the Arkansas
11 Soybean Promotion Board; provided, that the ~~director~~ secretary may deduct not
12 more than three percent (3%) to cover the cost of collections.

13
14 SECTION 3192. Arkansas Code § 2-20-407(b)(1), concerning reports,
15 books, and records to be sent to the Arkansas Soybean Promotion Board, is
16 amended to read as follows:

17 (b)(1) Each person who is subject to this subchapter shall maintain
18 and make available for inspection by the ~~secretary~~ United States Department
19 of Agriculture, the board or its designee, the ~~Director~~ Secretary of the
20 Department of Finance and Administration, such books and records as are
21 necessary to carry out the provisions of this subchapter and the rules issued
22 thereunder, including such records as are necessary to verify any reports
23 required. Such records shall be retained for at least two (2) years beyond
24 the fiscal period of their applicability.

25
26 SECTION 3193. The introductory language of Arkansas Code § 2-20-
27 407(c), concerning reports, books, and records to be sent to the Arkansas
28 Soybean Promotion Board, is amended to read as follows:

29 (c) All information obtained from books, records, or reports required
30 to be filed or kept under this section shall be kept confidential by all
31 persons, including employees and former employees of the board, all officers
32 and employees and all former officers and employees of the Department of
33 Finance and Administration, and by all officers and employees and all former
34 officers and employees of contracting parties having access to such
35 information, and shall not be available to board members or any other
36 producers. Only those persons having a specific need for such information in

1 order to effectively administer the provisions of this subchapter shall have
2 access to such information. In addition, only such information so furnished
3 or acquired as the ~~secretary~~ United States Department of Agriculture or the
4 board deems relevant shall be disclosed by them, and then only in a suit or
5 administrative hearing brought at the direction, or upon the request, of the
6 ~~secretary~~ United States Department of Agriculture or the board, or to which
7 the ~~secretary~~ United States Department of Agriculture, any officer of the
8 United States, the board, or the ~~director~~ Secretary of the Department of
9 Finance and Administration, is a party. This section shall not be deemed to
10 prohibit:

11
12 SECTION 3194. Arkansas Code § 2-20-408 is amended to read as follows:

13 2-20-408. Refunds to producers.

14 (a) So long as the assessment on soybeans is as provided in § 2-20-
15 406(b)(1), any soybean producer may request and receive a refund of such
16 assessment, provided he or she makes a written application therefor with the
17 Arkansas Soybean Promotion Board or its designee, the ~~Director~~ Secretary of
18 the Department of Finance and Administration, within forty-five (45) days
19 from the date of sale, supported by copies of sales slips signed by the
20 purchaser, and provided further, that the application is filed before the
21 annual accounting is made of the funds not later than July 1 each year.

22 (b) So long as the assessment on soybeans is as provided in § 2-20-
23 406(b)(2), any soybean producer may request and receive a refund of such
24 assessment to the extent provided by the Soybean Promotion, Research and
25 Consumer Information Act of 1990. Such producer shall make written
26 application therefor with the board or its designee, the ~~director~~ secretary,
27 within forty-five (45) days from the date the assessment was due from such
28 producer, supported by copies of sales slips signed by the purchaser.

29
30 SECTION 3195. Arkansas Code § 2-20-504(a) and (b), concerning
31 penalties in regards to rice promotion, are amended to read as follows:

32 (a)(1) Any buyer who fails to file a report or pay any assessment
33 within the required time set by the ~~Director~~ Secretary of the Department of
34 Finance and Administration shall forfeit to the ~~director~~ secretary a penalty
35 of five percent (5%) of the assessment determined to be due plus one percent
36 (1%) for each month of delay, or fraction of a month, after the first month

1 after the report was required to be filed or the assessment became due.

2 (2) The penalty shall be paid to the ~~director~~ secretary and
3 shall be disposed of by him or her in the same manner as funds derived from
4 the payment of assessment imposed in this subchapter.

5 (b) The ~~director~~ secretary shall collect the penalty levied in this
6 subchapter, together with the delinquent assessment, by any or all of the
7 following methods:

8 (1) Voluntary payment by the person liable;

9 (2) Legal proceedings instituted in a court of competent
10 jurisdiction; or

11 (3) Injunctive relief to enjoin any buyer owing an assessment or
12 penalty from operating his or her business or engaging in business as a buyer
13 of rice until the delinquent assessment or penalty is paid.

14

15 SECTION 3196. Arkansas Code § 2-20-507(b), concerning assessments on
16 grown rice, is amended to read as follows:

17 (b) The assessment imposed and levied by this section shall be
18 collected by the ~~Director~~ Secretary of the Department of Finance and
19 Administration from the buyer of rice at the first point of sale or at the
20 point the rice enters into the United States Department of Agriculture loan
21 program.

22

23 SECTION 3197. Arkansas Code § 2-20-508(a)(3), concerning records and
24 other documentation in regards to the Arkansas Rice Research and Promotion
25 Board, is amended to read as follows:

26 (3) The record shall be preserved for a period of one (1) year
27 and shall be offered for inspection at any time upon written demand by the
28 ~~Director~~ Secretary of the Department of Finance and Administration or any
29 duly authorized agent or representative of him or her.

30

31 SECTION 3198. Arkansas Code § 2-20-508(b), concerning records and
32 other documentation in regards to the Arkansas Rice Research and Promotion
33 Board, is amended to read as follows:

34 (b)(1) At such times as the ~~director~~ secretary may require, every
35 buyer shall submit reports or otherwise document any information deemed
36 necessary for the efficient collection of the assessment imposed in this

1 subchapter.

2 (2) The ~~director~~ secretary shall have the power to cause any
3 duly authorized agent or representative to enter upon the premises of any
4 buyer of rice and examine or cause to be examined by the agent any books,
5 papers, and records which deal in any way with respect to the payment of the
6 assessment or enforcement of the provisions of this subchapter.

7

8 SECTION 3199. Arkansas Code § 2-20-603(a), concerning penalties in
9 regard to wheat promotion, is amended to read as follows:

10 (a)(1) Any buyer who fails to file a report or pay any assessment
11 within the required time set by the ~~Director~~ Secretary of the Department of
12 Finance and Administration shall forfeit to the ~~director~~ secretary a penalty
13 of five percent (5%) of the assessment determined to be due plus one percent
14 (1%) for each month of delay, or fraction of a month, after the first month
15 after the report was required to be filed or the assessment became due.

16 (2) The penalty shall be paid to the ~~director~~ secretary and
17 shall be disposed of by him or her in the same manner as funds derived from
18 the payment of assessment imposed in this subchapter.

19

20 SECTION 3200. The introductory language of Arkansas Code § 2-20-
21 603(b), concerning penalties in regards to wheat promotion, is amended to
22 read as follows:

23 (b) The ~~director~~ secretary shall collect the penalty levied in this
24 subchapter, together with the delinquent assessment, by any or all of the
25 following methods:

26

27 SECTION 3201. Arkansas Code § 2-20-606(b)(1), concerning the
28 assessments on grown wheat, is amended to read as follows:

29 (b)(1) The assessment imposed and levied by this section shall be
30 collected by the ~~Director~~ Secretary of the Department of Finance and
31 Administration from the buyer of wheat at the first point of sale or when the
32 wheat enters the United States Department of Agriculture loan program.

33

34 SECTION 3202. Arkansas Code § 2-20-607(a)(3), concerning records and
35 other documentation in regard to the Arkansas Wheat Promotion Board, is
36 amended to read as follows:

1 (3) The record shall be preserved for a period of one (1) year
2 and shall be offered for inspection at any time upon written demand by the
3 ~~Director~~ Secretary of the Department of Finance and Administration or any
4 duly authorized agent or representative of him or her.

5
6 SECTION 3203. Arkansas Code § 2-20-607(b), concerning records and
7 other documentation in regard to the Arkansas Wheat Promotion Board, is
8 amended to read as follows:

9 (b)(1) At such times as the ~~director~~ secretary may require, every
10 buyer shall submit reports or otherwise document any information deemed
11 necessary for the efficient collection of the assessment imposed in this
12 subchapter.

13 (2) The ~~director~~ secretary shall have the power to cause any
14 duly authorized agent or representative to enter upon the premises of any
15 buyer of wheat and examine or cause to be examined by the agent any books,
16 papers, and records which deal in any way with respect to the payment of the
17 assessment or enforcement of the provisions of this subchapter.

18
19 SECTION 3204. Arkansas Code § 2-20-608(1), concerning refunds to wheat
20 producers, is amended to read as follows:

21 (1) He or she makes a written application with the ~~Director~~
22 Secretary of the Department of Finance and Administration within forty-five
23 (45) days from the date of sale, supported by copies of sales slips signed by
24 the purchaser; and

25
26 SECTION 3205. Arkansas Code § 2-20-802(a), concerning penalties
27 regarding corn and grain sorghum promotion, is amended to read as follows:

28 (a)(1) Any buyer who fails to file a report or pay any assessment
29 within the required time set by the ~~Director~~ Secretary of the Department of
30 Finance and Administration shall forfeit to the ~~director~~ secretary a penalty
31 of five percent (5%) of the assessment determined to be due plus one percent
32 (1%) for each month of delay, or fraction of a month, after the first month
33 after the report was required to be filed or the assessment became due.

34 (2) The penalty shall be paid to the ~~director~~ secretary and
35 shall be disposed of by him or her in the same manner as funds derived from
36 the payment of the assessment imposed in this subchapter.

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SECTION 3206. The introductory language of Arkansas Code § 2-20-802(b), concerning penalties regarding corn and grain sorghum promotion, is amended to read as follows:

(b) The ~~director~~ secretary shall collect the penalty levied in this section, together with the delinquent assessment, by any or all of the following methods:

SECTION 3207. Arkansas Code § 2-20-805(c)(1), concerning the powers and duties, assessments, and buyers' records in regard to the Arkansas Corn and Grain Sorghum Promotion Board, is amended to read as follows:

(c)(1) The assessment imposed and levied by this section shall be collected by the ~~Director~~ Secretary of the Department of Finance and Administration from the buyer of corn or grain sorghum at the first point of sale or when the corn or grain sorghum enters the United States Department of Agriculture loan program.

SECTION 3208. Arkansas Code § 2-20-805(d)(3)-(5), concerning the powers and duties, assessments, and buyers' records in regards to the Arkansas Corn and Grain Sorghum Promotion Board, are amended to read as follows:

(3) The record shall be preserved for a period of one (1) year and shall be offered for inspection at any time upon written demand by the ~~director~~ secretary or any duly authorized agent or representative of the ~~director~~ secretary.

(4) Every buyer, at such time or times as the ~~director~~ secretary may require, shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this section.

(5) The ~~director~~ secretary shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of corn or grain sorghum and examine or cause to be examined by the agent any book, paper, and record which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this subchapter.

1 SECTION 3209. Arkansas Code § 2-35-310 is amended to read as follows:
2 2-35-310. Refunds.

3 Any cattle producer may request and receive a refund of the amount
4 deducted from the sale of his or her cattle if he or she makes a written
5 application with the ~~Director~~ Secretary of the Department of Finance and
6 Administration within forty-five (45) days from the date of sale, supported
7 by copies of sales slips signed by the buyer and, if the application is filed
8 before the annual accounting is made of the funds, not later than July 1 each
9 year.

10
11 SECTION 3210. Arkansas Code § 2-35-403(a), concerning the assessment
12 and the conduct of the program regarding beef promotion and research, is
13 amended to read as follows:

14 (a) The assessment levied under the national beef promotion and
15 research program in the amount of one dollar (\$1.00) per head of cattle sold
16 shall be collected, reported, and remitted to the ~~Director~~ Secretary of the
17 Department of Finance and Administration by the persons, in the manner, and
18 at the times prescribed by the federal Beef Promotion and Research Act of
19 1985 and the administrative orders and rules issued under the provisions of
20 that act.

21
22 SECTION 3211. Arkansas Code § 2-35-404 is amended to read as follows:
23 2-35-404. Rules.

24 The ~~Director~~ Secretary of the Department of Finance and Administration
25 is authorized to adopt appropriate rules not inconsistent with this
26 subchapter or the federal law, orders, and rules regarding the national beef
27 promotion and research program as he or she may deem necessary to carry out
28 the intent and purposes of, and to assure compliance with, this subchapter
29 and the federal laws, orders, and rules relating to the national beef
30 promotion and research program.

31
32 SECTION 3212. The introductory language of Arkansas Code § 2-35-
33 405(a), concerning the disposition of funds, is amended to read as follows:

34 (a) The ~~Director~~ Secretary of the Department of Finance and
35 Administration shall deposit in the State Treasury all funds collected by him
36 or her under this subchapter and the federal Beef Promotion and Research Act

1 of 1985 and the federal administrative orders and rules issued under that
2 act. Beginning with funds collected by him or her on and after the first day
3 of the month next following January 22, 1987, the Treasurer of State shall:
4

5 SECTION 3213. Arkansas Code § 2-40-206(b), concerning the funding of a
6 bovine disease program, is amended to read as follows:

7 (b)(1) The fee shall be collected by the purchaser and remitted
8 monthly to the ~~Director~~ Secretary of the Department of Finance and
9 Administration, except that if the sale occurs through a livestock auction
10 market or any other agent of the seller, the livestock auction market or
11 other agent shall collect and remit the fee. The ~~director~~ Secretary of the
12 Department of Finance and Administration may promulgate such rules as it
13 deems necessary to implement the collection of the fee.

14 (2)(A) After deducting three percent (3%) for credit to the
15 Constitutional Officers Fund and the State Central Services Fund the
16 remainder of funds so remitted to the ~~director~~ Secretary of the Department of
17 Finance and Administration shall be deposited into the State Treasury as
18 special revenues and credited to the Livestock and Poultry Commission Disease
19 and Pest Control Fund.

20 (B) Before the close of each fiscal year, the Chief Fiscal
21 Officer of the State shall determine the amount of funds which will remain at
22 the end of the fiscal year in the Livestock and Poultry Commission Disease
23 and Pest Control Fund from fees collected under the provisions of this
24 section. He or she shall allow such funds to be carried forward and made
25 available for the same purposes in the next-succeeding fiscal year.

26 (C) The ~~director~~ Secretary of the Department of Finance
27 and Administration shall release all information related to the fee levied
28 per head on all cattle sold in the state to be used for the bovine disease
29 control and eradication fund when requested by the Secretary of the ~~Arkansas~~
30 ~~Agriculture~~ Department of Agriculture.

31
32 SECTION 3214. Arkansas Code § 2-40-1201(b) and (c), concerning fees
33 and disposition of funds, are amended to read as follows:

34 (b)(1) Each livestock market operator shall collect fees and remit
35 monthly to the ~~Director~~ Secretary of the Department of Finance and
36 Administration.

1 (2) The ~~director~~ secretary may promulgate such rules as ~~it~~ the
2 secretary deems necessary to implement the collection of the fee.

3 (c) After deducting three percent (3%) for credit to the
4 Constitutional Officers Fund and the State Central Services Fund, the
5 remainder of funds so remitted to the ~~director~~ secretary shall be deposited
6 into the State Treasury as special revenues and credited to the Livestock and
7 Poultry Commission Swine Testing Fund.

8
9 SECTION 3215. Arkansas Code § 3-2-101(a), concerning the prohibition
10 of interest in alcoholic beverages by enforcement officers, is amended to
11 read as follows:

12 (a) Neither the ~~Director~~ Secretary of the Department of Finance and
13 Administration nor any officer, employee, deputy, or assistant thereof shall
14 have any direct or indirect interest in or on any premises where alcoholic
15 liquors are manufactured or sold, nor shall he or she have any direct or
16 indirect interest in any business wholly or partially devoted to the
17 manufacture or sale of alcoholic liquors or own any stock in any corporation
18 which has any direct or indirect interest in the premises where alcoholic
19 liquors are manufactured or sold or in any business wholly or partially
20 devoted to the manufacture or sale of alcoholic liquors.

21
22 SECTION 3216. Arkansas Code § 3-2-203(a), concerning the director and
23 staff of the Alcoholic Beverage Control Enforcement Division, is amended to
24 read as follows:

25 (a) The Director of the Alcoholic Beverage Control Enforcement
26 Division shall be appointed by the ~~Director~~ Secretary of the Department of
27 Finance and Administration and shall serve at the pleasure of the ~~Director~~
28 Secretary of the Department of Finance and Administration.

29
30 SECTION 3217. Arkansas Code § 3-2-205(b)(5)(A), concerning the powers
31 and duties of the Alcohol Beverage Control Division and the Alcoholic
32 Beverage Control Enforcement Division, is amended to read as follows:

33 (5)(A) To keep records in proper form, to be prescribed by the
34 Director of the Alcoholic Beverage Control Division and the ~~Director~~
35 Secretary of the Department of Finance and Administration, of all permits
36 issued and all permits revoked under the provisions of this act and to keep

1 records in such form so as to provide ready information as to the identity of
2 all permit holders, including the names of stockholders who are not exempted
3 under subdivision (b)(5)(B) of this section, and directors of corporations
4 holding permits, and also the location of all permitted premises.

5
6 SECTION 3218. Arkansas Code § 3-2-205(c)(6), concerning the powers and
7 duties of the Alcohol Beverage Control Division and the Alcoholic Beverage
8 Control Enforcement Division, is amended to read as follows:

9 (6) Any other powers, functions, and duties pertaining to the
10 control of alcoholic beverages which previously were granted to the ~~Director~~
11 Secretary of the Department of Finance and Administration and which are not
12 specifically delegated to the Alcoholic Beverage Control Board by the
13 provisions of this subchapter.

14
15 SECTION 3219. Arkansas Code § 3-2-205(d)(4), concerning the powers and
16 duties of the Alcohol Beverage Control Division and the Alcoholic Beverage
17 Control Enforcement Division, is amended to read as follows:

18 (4) Any other powers, functions, and duties pertaining to the
19 control of alcoholic beverages which previously were granted to the ~~Director~~
20 Secretary of the Department of Finance and Administration and which are not
21 specifically delegated to the Director of the Alcoholic Beverage Control
22 Division or the board by the provisions of this subchapter.

23
24 SECTION 3220. Arkansas Code § 3-2-205(e)(2)-(4), concerning the powers
25 and duties of the Alcohol Beverage Control Division and the Alcoholic
26 Beverage Control Enforcement Division, are amended to read as follows:

27 (2) The collection of all such taxes and permit or license fees
28 shall be by the ~~Director~~ Secretary of the Department of Finance and
29 Administration and his or her agents and employees, as provided by law.

30 (3) The ~~Director~~ Secretary of the Department of Finance and
31 Administration shall make a biennial report to the Governor and the General
32 Assembly of his or her activities for the past year, which shall include
33 statistics as to the amount of vinous (except wines), spirituous, or malt
34 liquors manufactured in the State of Arkansas and the disposition thereof;
35 the increase or decrease in their consumption over the preceding year; the
36 amount of taxes and permit fees collected; and such other information as he

1 or she deems advisable.

2 (4) The ~~Director~~ Secretary of the Department of Finance and
3 Administration shall report by June 1 of each year to the Alcoholic Beverage
4 Control Division and the board any and all permit and license holders who are
5 more than ninety (90) days delinquent on any alcoholic beverage sales tax,
6 excise tax, supplemental mixed drink tax, any other tax relating to the sale
7 or dispensing of alcoholic beverages, or any state or local gross receipts or
8 compensating use taxes.

9

10 SECTION 3221. Arkansas Code § 3-4-103(e), concerning the continuation
11 of a permitted business that holds an alcoholic beverage permit by a
12 benefiting fiduciary, is amended to read as follows:

13 (e) For each endorsement, a fee of five dollars (\$5.00) shall be paid
14 to the ~~Director~~ Secretary of the Department of Finance and Administration by
15 the applicant, which shall be paid into the same fund as other permit fees
16 herein provided.

17

18 SECTION 3222. Arkansas Code § 3-4-301(a)(7), concerning the grounds
19 for revocation of any permit issued for alcoholic beverages, is amended to
20 read as follows:

21 (7) For failure or default of a permittee to pay any license or
22 permit tax or any part thereof or penalties imposed by this act and for a
23 violation of any rule or regulation of the ~~Director~~ Secretary of the
24 Department of Finance and Administration or the Director of the Alcoholic
25 Beverage Control Division in pursuance thereof;

26

27 SECTION 3223. Arkansas Code § 3-4-301(b)(1), concerning the grounds
28 for revocation of any permit issued for alcoholic beverages, is amended to
29 read as follows:

30 (b)(1) Whenever any person holding a retailer's permit to sell and
31 dispense vinous or spirituous liquors for beverage purposes at retail shall
32 fail to pay any Arkansas gross receipts tax, franchise tax, or the three
33 percent (3%) special alcoholic beverage excise tax within sixty (60) days
34 after the taxes become due, the ~~Director~~ Secretary of the Department of
35 Finance and Administration shall notify the Alcoholic Beverage Control Board
36 of that fact and the board shall immediately revoke such permit.

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SECTION 3224. Arkansas Code § 3-4-501(b) and (c), concerning when fees are due, are amended to read as follows:

(b) It shall be the duty of the person required to pay the license to make a report giving the facts in such form and substance as the Director of the Alcoholic Beverage Control Division shall by rule require. All payments therefor shall be made to the ~~Director~~ Secretary of the Department of Finance and Administration, payable to the Treasurer of State, and all permit fees shall likewise be made to the ~~Director~~ Secretary of the Department of Finance and Administration and payable to the Treasurer of State.

(c)(1) Except for grocery store wine permit fees under § 3-5-1802, all permits or license fees or taxes, penalties, fines, and costs received by the ~~Director~~ Secretary of the Department of Finance and Administration under the provisions of this act shall be general revenues and shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

(2) The Treasurer of State shall allocate and transfer the amounts to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

SECTION 3225. Arkansas Code § 3-5-216(c), concerning the warehousing of beer and light wines, is amended to read as follows:

(c) The ~~Director~~ Secretary of the Department of Finance and Administration shall provide for the collection of all fees and taxes imposed by this subchapter upon beer and wine at designated warehouses as provided for in subdivision (b)(1) of this section.

SECTION 3226. Arkansas Code § 3-5-223(a), concerning actions to recover taxes, is amended to read as follows:

(a) Where the ~~Director~~ Secretary of the Department of Finance and Administration finds upon investigation that the state has lost tax on account of the evasion of any provision of law, he or she may bring suit in his or her own name in the proper court for the recovery of such taxes.

SECTION 3227. Arkansas Code § 3-5-224 is amended to read as follows:

1 3-5-224. Disposition of funds.

2 All permits or license fees or taxes, penalties, fines, proceeds of all
3 forfeitures, special inspection fees, and costs received by the ~~Director~~
4 Secretary of the Department of Finance and Administration under the
5 provisions of this subchapter shall be general revenues and shall be
6 deposited in the State Treasury to the credit of the State Apportionment
7 Fund. The Treasurer of State shall allocate and transfer those revenues to
8 the various State Treasury funds participating in general revenues in the
9 respective proportions to each as provided by and to be used for the
10 respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et
11 seq.

12
13 SECTION 3228. Arkansas Code § 3-5-225 is amended to read as follows:

14 3-5-225. Additional administrative personnel.

15 The ~~Director~~ Secretary of the Department of Finance and Administration
16 and the Director of the Alcoholic Beverage Control Division are authorized to
17 employ such additional clerks, inspectors, and assistants as may be necessary
18 for the enforcement of this subchapter.

19
20 SECTION 3229. Arkansas Code § 3-5-602 is amended to read as follows:

21 3-5-602. Rules and regulations.

22 (a) The ~~Director~~ Secretary of the Department of Finance and
23 Administration is authorized to establish appropriate rules and regulations,
24 if he or she deems it advisable, to simplify the furnishing of information to
25 the Department of Finance and Administration as required under the provisions
26 of this subchapter.

27 (b) The ~~director~~ secretary may promulgate forms which are to be filed
28 with the department abbreviating information now required to be furnished
29 under this subchapter or may waive in writing the filing of any information
30 with the department on condition that the information and records will be
31 kept by Arkansas wineries for department inspection and audit.

32
33 SECTION 3230. Arkansas Code § 3-5-803 is amended to read as follows:

34 3-5-803. Acquisition of ingredients from outside state.

35 Whenever reference is made in this subchapter ~~and § 3-5-405 [repealed]~~
36 to the acquisition of grapes, berries, fruits, or vegetables from sources

1 outside this state to be used for the purposes and in the quantities
2 authorized in this subchapter ~~and § 3-5-405 [repealed]~~, for the production of
3 native wines, the term shall also be deemed to mean the acquisition of
4 equivalent amounts thereof in the form of juice, pulp, or blendable wines to
5 be used in the manufacture or blending of native wines in this state within
6 the allowable percentages of such products used in the preparation of juices,
7 pulp, or blendable wines as set forth in the order by the ~~Director~~ Secretary
8 of the Department of Finance and Administration.

9
10 SECTION 3231. Arkansas Code § 3-5-804(b)(3), concerning the
11 construction of the Native Wine Industry Disaster Relief Act with existing
12 laws, is amended to read as follows:

13 (3) To authorize the importation of products to offset losses of
14 production of products in this state, only in accordance with a native wine
15 industry disaster relief order of the ~~Director~~ Secretary of the Department of
16 Finance and Administration.

17
18 SECTION 3232. Arkansas Code § 3-5-805 is amended to read as follows:
19 3-5-805. Declaration of a relief program – Effect.

20 (a) Whenever, due to excessive heat, drought, flood, plant disease, or
21 other natural disaster, the production of Arkansas-grown grapes, fruits,
22 berries, or vegetables necessary to sustain the operation of native wineries
23 on a full production basis is severely curtailed, upon petition therefor by
24 one (1) or more native wineries licensed to do business in this state, and
25 upon certification from the University of Arkansas Division of Agriculture
26 Cooperative Extension Service that the production of such products has been
27 curtailed due to natural disaster and outlining the estimated extent of the
28 curtailment, the ~~Director~~ Secretary of the Department of Finance and
29 Administration shall determine, within thirty (30) days, whether
30 circumstances exist which justify the declaration of a native wine industry
31 disaster relief program. In connection therewith, the ~~director~~ secretary
32 shall make independent studies and obtain information as he or she may deem
33 appropriate or necessary to reach a proper decision in regard to the
34 petition.

35 (b)(1) Upon conclusion of the studies, and in no event later than
36 thirty (30) days after the date of the receipt of the petition, the ~~director~~

1 secretary shall issue a ruling.

2 (2) If the ~~director~~ secretary shall determine that circumstances
3 justify the invoking of a native wine industry disaster relief program, as
4 authorized in this subchapter and ~~§ 3-5-405 [repealed]~~, he or she shall state
5 in his or her order the facts which justify the establishment of the program,
6 the anticipated loss in production of Arkansas-grown grapes, fruits, berries,
7 or vegetables, or varieties thereof, to result from the natural disaster, and
8 the duration for which the native wine industry disaster relief program shall
9 extend.

10 (3) Copies of the order shall be filed by the ~~director~~ secretary
11 with each licensed native winery in this state and with other interested
12 parties who may request copies of the order.

13 (c) During the period of the native wine industry disaster relief
14 program, as determined by the ~~director~~ secretary, native wineries in this
15 state may acquire from sources outside this state supplies of grapes, fruits,
16 berries, or vegetables within the percentage of their total consumption of
17 such products as set forth by the ~~director~~ secretary.

18

19 SECTION 3233. Arkansas Code § 3-5-807 is amended to read as follows:
20 3-5-807. Tax on wines produced under program.

21 (a) During a period of native wine industry disaster relief order
22 issued by the ~~Director~~ Secretary of the Department of Finance and
23 Administration under the provisions of § 3-5-805, any native wine produced
24 from grapes, berries, fruits, or vegetables within the permissible quantities
25 authorized to be imported from sources of supply outside this state to
26 replace losses in production of such products in this state resulting from
27 natural disaster, within the percentages set forth in the native wine
28 industry disaster relief order of the ~~director~~ secretary, shall be subject to
29 the native wine tax imposed under the provisions of § 3-5-409 [repealed]. The
30 provisions of subchapter 6 of this chapter shall be inoperative with respect
31 to wines produced from the grapes, fruits, berries, and vegetables imported
32 from sources of supply outside this state within the quantities set forth in
33 the order of the ~~director~~ secretary.

34 (b) However, if quantities of wine are produced from the grapes,
35 berries, fruits, and vegetables, or juices, pulp, or blendable wines thereof
36 produced outside this state in excess of the percentage of the products

1 authorized in the order of the ~~director~~ secretary to offset losses of
2 production in this state resulting from natural disaster, the tax on such
3 excess native wine produced from imported grapes, fruits, berries, and
4 vegetables, or from juices, pulp, or blendable wines derived therefrom, shall
5 be reported and paid as provided in subchapter 6 of this chapter.

6
7 SECTION 3234. Arkansas Code § 3-5-903 is amended to read as follows:
8 3-5-903. Rules and regulations.

9 The ~~Director~~ Secretary of the Department of Finance and Administration
10 may establish reasonable rules and regulations to be followed by wineries in
11 this state in making application for the subsidy payments and to prevent
12 abuse of the subsidy payments.

13
14 SECTION 3235. Arkansas Code § 3-5-904(c), concerning the eligibility
15 of an Arkansas-bonded winery, is amended to read as follows:

16 (c) However, in any year in which there are losses in production of
17 Arkansas-grown grapes, fruits, berries, or vegetables used in the production
18 of wine resulting from droughts, floods, tornadoes, extreme weather
19 conditions, or other natural causes, the percentage of Arkansas-grown and
20 Arkansas-produced grapes, fruits, berries, or vegetables used in producing
21 wine, as required in this subchapter, shall be reduced in the proportion of
22 the losses in production of the products as determined and set forth in a
23 disaster relief order issued by the ~~Director~~ Secretary of the Department of
24 Finance and Administration prepared under the same procedures as set forth in
25 the Native Wine Industry Disaster Relief Act, ~~§ 3-5-405 [repealed]~~ and § 3-
26 5-801 et seq.

27
28 SECTION 3236. Arkansas Code § 3-5-905 is amended to read as follows:
29 3-5-905. Applications.

30 Any winery in this state that produces wine from grapes, fruits,
31 berries, or vegetables grown in this state and complies with the provisions
32 of § 3-5-904, that desires to receive the grants authorized in this
33 subchapter with respect to the purchase of such products or with respect to
34 such products produced in vineyards or of other growing facilities in this
35 state belonging to the winery, may make application for grant payments under
36 this subchapter upon forms and in accordance with the rules and regulations

1 promulgated by the ~~Director~~ Secretary of the Department of Finance and
2 Administration.

3
4 SECTION 3237. Arkansas Code § 3-5-907(a), concerning grant payments
5 and amounts, is amended to read as follows:

6 (a) Grant payments as authorized in this subchapter shall be made by
7 the ~~Director~~ Secretary of the Department of Finance and Administration from
8 moneys appropriated by the General Assembly for that purpose at each regular
9 session and fiscal session of the General Assembly.

10
11 SECTION 3238. Arkansas Code § 3-5-1005 is amended to read as follows:
12 3-5-1005. Applications.

13 Any winery in this state which produces wines from grapes, berries,
14 fruits, or vegetables grown in this state, which desires to receive the
15 subsidy authorized in this subchapter with respect to such purchases, may
16 make application for the subsidy with the Department of Finance and
17 Administration upon forms and in accordance with rules and regulations
18 promulgated by the ~~Director~~ Secretary of the Department of Finance and
19 Administration.

20
21 SECTION 3239. Arkansas Code § 3-5-1007(a), concerning the creation of
22 the Arkansas Wine Grape, Berry, Fruit, and Vegetable Subsidy Fund, is amended
23 to read as follows:

24 (a) In order to provide moneys to be used in paying the subsidies to
25 Arkansas grape, berry, fruit, and vegetable producers whose production is
26 sold to wineries in this state for making wine, the ~~Director~~ Secretary of the
27 Department of Finance and Administration is authorized and directed to cause
28 to be set aside in the State Treasury an amount of sixty-nine cents (69¢) for
29 each seventy-five cents (75¢) gallonage tax collected on wines produced by
30 wineries in this state from grapes, berries, fruits, or vegetables used in
31 the production of wines in this state.

32
33 SECTION 3240. Arkansas Code § 3-5-1208 is amended to read as follows:
34 3-5-1208. Rules and regulations.

35 The Director of the Alcoholic Beverage Control Division, ~~and~~ the
36 Alcoholic Beverage Control Board, ~~and~~ the ~~Director~~ Secretary of the

1 Department of Finance and Administration, and any other applicable agency of
2 this state, shall promulgate and adopt such regulations as they deem
3 necessary for the implementation of this subchapter, which regulations may
4 consist in whole or in part of the federal regulations.

5
6 SECTION 3241. Arkansas Code § 3-5-1413 is amended to read as follows:
7 3-5-1413. Rules.

8 The Director of the Alcoholic Beverage Control Board and the ~~Director~~
9 Secretary of the Department of Finance and Administration may adopt rules for
10 the implementation of this subchapter.

11
12 SECTION 3242. Arkansas Code § 3-5-1608 is amended to read as follows:
13 3-5-1608. Bond.

14 By consent of the ~~Director~~ Secretary of the Department of Finance and
15 Administration, the small farm winery may file a bond with the ~~director~~
16 secretary, the bond to be approved by him or her, which will entitle the
17 small farm winery to the privilege of making settlement of its taxes every
18 thirty (30) days, the time to be set by the ~~director~~ secretary.

19
20 SECTION 3243. Arkansas Code § 3-5-1609 is amended to read as follows:
21 3-5-1609. Penalty.

22 Upon conviction, a person who violates this subchapter or any
23 reasonable rule adopted under this subchapter by the Director of the
24 Alcoholic Beverage Control Division or the ~~Director~~ Secretary of the
25 Department of Finance and Administration is guilty of a Class B misdemeanor.

26
27 SECTION 3244. Arkansas Code § 3-5-1707 is amended to read as follows:
28 3-5-1707. Rules.

29 The Director of the Alcoholic Beverage Control Division, the Alcoholic
30 Beverage Control Board, the ~~Director~~ Secretary of the Department of Finance
31 and Administration, and any other affected agency of this state may adopt
32 rules to implement this subchapter.

33
34 SECTION 3245. Arkansas Code § 3-5-1708(a), concerning the disposition
35 of funds, is amended to read as follows:

36 (a) Permit fees or taxes, label fees, penalties, fines, proceeds of

1 all forfeitures, special inspection fees, and costs received by the ~~Director~~
2 Secretary of the Department of Finance and Administration under this
3 subchapter shall be general revenues and shall be deposited into the State
4 Treasury to the credit of the State Apportionment Fund.

5
6 SECTION 3246. Arkansas Code § 3-6-106(a), concerning the collection of
7 fees and taxes, is amended to read as follows:

8 (a) The permit fees and the tax herein provided shall be collected in
9 the same manner as all other liquor taxes and under such reasonable rules and
10 regulations as the ~~Director~~ Secretary of the Department of Finance and
11 Administration or his or her successor may provide.

12
13 SECTION 3247. Arkansas Code § 3-7-105 is amended to read as follows:

14 3-7-105. Malt liquor tax – Reporting and payments.

15 (a) The excise tax levied on malt liquors by § 3-7-104 shall be
16 reported and paid to the ~~Director~~ Secretary of the Department of Finance and
17 Administration on or before the fifteenth day of the month following the
18 month in which the wholesaler or other person authorized to sell malt liquors
19 obtains delivery of such malt liquors from the supplier.

20 (b) The ~~director~~ secretary shall provide forms necessary for reporting
21 the tax due and shall enforce the tax pursuant to the Arkansas Tax Procedure
22 Act, § 26-18-101 et seq.

23
24 SECTION 3248. Arkansas Code § 3-7-107 is amended to read as follows:

25 3-7-107. Enforcement – Rules and regulations.

26 (a) Sections 3-7-101 – 3-7-104 and 3-7-106 – 3-7-110 shall be
27 administered and enforced by the Director of the Alcoholic Beverage Control
28 Division and the ~~Director~~ Secretary of the Department of Finance and
29 Administration.

30 (b) The Director of the Alcoholic Beverage Control Division and the
31 ~~Director~~ Secretary of the Department of Finance and Administration are
32 authorized and directed to issue permits as provided for in §§ 3-7-101 – 3-7-
33 104 and 3-7-106 – 3-7-110, for the manufacture, sale, and transportation of
34 distilled spirits and to enforce the license tax provisions of §§ 3-7-101 –
35 3-7-104 and 3-7-106 – 3-7-110 and the collection of the license taxes imposed
36 hereby and to promulgate reasonable rules and regulations for those purposes.

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SECTION 3249. Arkansas Code § 3-7-108 is amended to read as follows:
3-7-108. Disposition of funds.

All taxes, penalties, and costs collected by the ~~Director~~ Secretary of the Department of Finance and Administration under the provisions of §§ 3-7-101 – 3-7-104 and 3-7-106 – 3-7-110 shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund. The Treasurer of State, on or before the fifth day of the month next following the month during which such funds shall have been received by him or her, shall allocate and transfer the funds to the various State Treasury funds in the proportions to each as provided by law, after first transferring to the General Revenue Fund Account of the State Apportionment Fund an amount equivalent to the cost of collection and other charges as also provided by law.

SECTION 3250. Arkansas Code § 3-7-111(b)(3), concerning additional taxes for native wine and beer, is amended to read as follows:

(3) All taxes, penalties, fines, and costs received by the ~~Director~~ Secretary of the Department of Finance and Administration under the provisions of this subsection shall be deposited into the State Treasury as general revenues to the credit of the State Apportionment Fund. There those amounts shall be allocated to the various funds, fund accounts, and accounts participating in general revenues in the respective proportions to each as provided by law and shall be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

SECTION 3251. Arkansas Code § 3-7-201(b)-(e), concerning the collection of taxes imposed for a special alcoholic beverage excise tax, are amended to read as follows:

(b) It shall be the duty of every retailer in this state to collect the tax from the consumer in addition to the established retail price of beer, liquor, cordials, liqueurs, specialties, and sparkling and still wines and to file a return and remittance with the ~~Director~~ Secretary of the Department of Finance and Administration on or before the twentieth day of each calendar month for the preceding month.

(c) Failure to file the return and remittance on the due date shall be

1 cause for the ~~director~~ secretary to enter an assessment for the return and
2 remittance and add as a penalty ten percent (10%) of the amount of tax found
3 to be due.

4 (d) Returns shall be filed upon forms prescribed by the ~~director~~
5 secretary in accordance with such regulations as the ~~director~~ secretary may
6 promulgate hereunder.

7 (e) The State Board of Education and the ~~Department of~~ Division of
8 Elementary and Secondary Education shall fully budget, fund, and expend or
9 commit to expend the general revenue replacing the revenue derived from the
10 previously imposed special alcoholic beverage excise tax on beer in addition
11 to any other funding provided by law for essential programs such as
12 subsidized child care for low-income families, the Arkansas Better Chance
13 Program, and the Child Care and Early Childhood Education Fund Account in an
14 amount equal to the appropriation level for the Arkansas Better Chance
15 Program.

16
17 SECTION 3252. Arkansas Code § 3-7-202(a), concerning the procedure for
18 obtaining a lien, is amended to read as follows:

19 (a) If the taxpayer fails to demand a hearing before the ~~Director~~
20 Secretary of the Department of Finance and Administration within twenty (20)
21 days after an assessment of the tax due the state has been made under this
22 subchapter or, if the taxpayer shall fail to pay the tax assessed by the
23 ~~director~~ secretary after a hearing and an order by the ~~director~~ secretary
24 establishing the tax, as hereinbefore provided, then the ~~director~~ secretary
25 may as soon as practicable thereafter issue to the circuit clerk of any
26 county of the state a certificate certifying that the person therein named is
27 indebted to the state for the tax established by the ~~director~~ secretary to be
28 due.

29
30 SECTION 3253. Arkansas Code § 3-7-203(a), concerning a lien and
31 execution of the lien, is amended to read as follows:

32 (a) On the entry of the certificate of the ~~Director~~ Secretary of the
33 Department of Finance and Administration, the circuit clerk shall issue an
34 execution directed to the sheriff of the county, commanding him or her to
35 levy upon and against all real and personal property of the taxpayer, which
36 execution shall be by the clerk placed in the hands of the sheriff for

1 levying thereon. The ~~director~~ secretary shall thereby have all the remedies
2 and may take all the proceedings for the collection of the tax which may be
3 had or taken upon the recovery of a judgment at law.

4
5 SECTION 3254. Arkansas Code § 3-7-203(d), concerning a lien and
6 execution of the lien, is amended to read as follows:

7 (d) However, in the event the sheriff is unable, after diligent
8 effort, to effect collection of the tax, interest, penalties, and costs, the
9 ~~director~~ secretary shall be empowered and authorized to pay such fees as are
10 properly shown to be due to the clerk and sheriff out of the Miscellaneous
11 Tax Refund Account.

12
13 SECTION 3255. Arkansas Code § 3-7-204 is amended to read as follows:

14 3-7-204. Alternative remedies.

15 Nothing in this subchapter shall preclude the ~~Director~~ Secretary of the
16 Department of Finance and Administration from resorting to any other legal
17 means of collecting taxes as may now be provided by law. The issuance of a
18 certificate of indebtedness, the entry thereof by the clerk, and the levy of
19 execution, as provided herein, shall not constitute an election of remedies
20 in respect to the collection of the tax.

21
22 SECTION 3256. Arkansas Code § 3-7-205 is amended to read as follows:

23 3-7-205. Disposition of funds.

24 All taxes, interest, penalties, and costs received by the ~~Director~~
25 Secretary of the Department of Finance and Administration under the
26 provisions of this subchapter shall be general revenues and shall be
27 deposited in the State Treasury to the credit of the State Apportionment
28 Fund. The Treasurer of State shall allocate and transfer the revenues to the
29 various State Treasury funds participating in general revenues in the
30 respective proportions to each as provided by and to be used for the
31 respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et
32 seq.

33
34 SECTION 3257. The introductory language of Arkansas Code § 3-7-302(a),
35 concerning monthly reports and payments of excise tax, is amended to read as
36 follows:

1 (a) Each licensee responsible for the payment of excise tax shall file
2 on or before the fifteenth day of each month a verified report on forms
3 provided by the ~~Director~~ Secretary of the Department of Finance and
4 Administration showing, for the preceding calendar month, the exact quantity
5 of spirituous liquor:
6

7 SECTION 3258. Arkansas Code § 3-7-302(b) and (c), concerning monthly
8 reports and payments of excise tax, are amended to read as follows:

9 (b) The report on forms prescribed by the ~~director~~ secretary shall
10 also show the amount of excise tax payable after allowance for all proper
11 deductions for all spirituous liquors received by him or her in this state
12 and shall include such additional information as the ~~director~~ secretary may
13 require for the proper administration of this subchapter.

14 (c) Payment of the excise tax levied by law in the amount disclosed by
15 the report shall accompany the report and shall be paid to the ~~director~~
16 secretary.
17

18 SECTION 3259. Arkansas Code § 3-7-303 is amended to read as follows:

19 3-7-303. Records – Penalties.

20 (a) Each wholesale distributor and importer of spirituous liquors
21 required to file a return shall keep such complete and accurate books,
22 papers, invoices, and other records as may be necessary to substantiate the
23 accuracy of his or her report and the amount of excise tax due and shall
24 retain the records for not less than three (3) years, subject to the use and
25 inspection of the ~~Director~~ Secretary of the Department of Finance and
26 Administration or his or her agents.

27 (b) Any person required by this subchapter to retain books, papers,
28 invoices, and other records who fails to produce them upon demand by the
29 ~~director~~ secretary or his or her agent or agents of the Alcoholic Beverage
30 Control Division or its successor agency, unless the failure to produce is
31 due to providential or other causes beyond his or her control, shall be
32 guilty of a Class A misdemeanor.
33

34 SECTION 3260. Arkansas Code § 3-7-307 is amended to read as follows:

35 3-7-307. Rules and regulations – Sales to the military.

36 The ~~Director~~ Secretary of the Department of Finance and Administration

1 shall continue the present, and if necessary promulgate additional, rules and
2 regulations to relieve wholesale distributors and importers from the
3 liability of paying the excise tax levied and imposed on beverages covered by
4 this subchapter which are sold to agencies of the United States Armed Forces.
5

6 SECTION 3261. Arkansas Code § 3-7-404 is amended to read as follows:

7 3-7-404. Rules and regulations.

8 (a) The rules and regulations required by § 3-7-401 pertaining to a
9 reporting method for paying and collecting excise tax on beer shall be
10 adopted and promulgated by the ~~Director~~ Secretary of the Department of
11 Finance and Administration.

12 (b) The rules and regulations shall be jointly enforced by both the
13 ~~Director~~ Secretary of the Department of Finance and Administration and the
14 Alcoholic Beverage Control Board.

15 (c) The Director of the Alcoholic Beverage Control Division shall have
16 authority to promulgate rules and regulations pertaining to the possession,
17 transportation, or importation of beer into the State of Arkansas.

18 (d) The express purpose of this section is to carry out the intention
19 of §§ 3-7-401 – 3-7-403 to provide authority for protecting the state against
20 loss of revenues derived from the levy of the excise tax on beer. The
21 ~~Director~~ Secretary of the Department of Finance and Administration shall have
22 full authority to adopt whatever rules and regulations he or she may deem
23 necessary to this end.
24

25 SECTION 3262. Arkansas Code § 3-7-501(a), concerning the authorization
26 of the Director of the Department of Finance and Administration to adopt
27 rules and regulations, is amended to read as follows:

28 (a) The ~~Director~~ Secretary of the Department of Finance and
29 Administration is authorized and directed to adopt and issue rules and
30 regulations to protect the revenues of this state by prescribing a reporting
31 method for paying and collecting the tax on wines.
32

33 SECTION 3263. Arkansas Code § 3-7-502 is amended to read as follows:

34 3-7-502. Reports and payment.

35 The rules and regulations shall require reports to be filed with the
36 ~~Director~~ Secretary of the Department of Finance and Administration on or

1 before the fifteenth day of the month following the month in which the
2 wholesaler or importer of wines shall obtain delivery of wines from the
3 supplier. The tax due shall accompany this report.

4
5 SECTION 3264. Arkansas Code § 3-7-505 is amended to read as follows:
6 3-7-505. Joint enforcement.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 and the Alcoholic Beverage Control Division or its successor agency shall
9 jointly enforce the provisions of this subchapter.

10
11 SECTION 3265. Arkansas Code § 3-9-213(c)(1), concerning the gross
12 receipts and supplemental taxes on sale of alcoholic beverages, is amended to
13 read as follows:

14 (c)(1) The supplemental tax shall be reported and paid to the ~~Director~~
15 Secretary of the Department of Finance and Administration in the same manner
16 and at the same time as the gross receipts tax and shall be subject to such
17 reasonable rules and regulations as the ~~director~~ secretary may prescribe,
18 including the maintenance of permanent records showing all purchases and
19 sales of alcoholic beverages.

20
21 SECTION 3266. Arkansas Code § 3-9-223(c)(1), concerning private clubs,
22 permit renewal fees, and taxes, is amended to read as follows:

23 (c)(1) The supplemental tax shall be reported and paid to the ~~Director~~
24 Secretary of the Department of Finance and Administration in the same manner
25 and at the same time as the gross receipts tax under the Arkansas Gross
26 Receipts Act of 1941, § 26-52-101 et seq., and shall be in addition to the
27 tax.

28
29 SECTION 3267. Arkansas Code § 3-9-223(d), concerning private clubs,
30 permit renewal fees, and taxes, is amended to read as follows:

31 (d) The ~~director~~ secretary shall promulgate reasonable rules and
32 regulations for the enforcement and collection of the tax levied herein,
33 including a requirement that each permittee maintain records showing all such
34 charges made.

35
36 SECTION 3268. Arkansas Code § 3-9-229 is amended to read as follows:

1 3-9-229. Collection of taxes.

2 The ~~Director~~ Secretary of the Department of Finance and Administration
3 may assess and collect delinquent state and local taxes from the owner or
4 owners of the hotel or restaurant, file claims for unpaid taxes against bonds
5 or other security required to be posted by the permittee, and enforce liens
6 against assets held by the owner or owners. The Alcoholic Beverage Control
7 Division may suspend or refuse to renew a permit held by a nonpartner if the
8 hotel or restaurant owner fails to remit state taxes.

9

10 SECTION 3269. Arkansas Code § 3-9-232(a), concerning the inspection
11 and records of licensed premises and private clubs, is amended to read as
12 follows:

13 (a) No permit shall be issued under this subchapter unless the
14 permittee has consented in writing that the licensed premises and its books
15 and records shall be open at all times to all law enforcement and tax
16 officials and officials of the Alcoholic Beverage Control Division, the
17 Alcoholic Beverage Control Enforcement Division, and the ~~Director~~ Secretary
18 of the Department of Finance and Administration without requirement of
19 warrant or other legal process.

20

21 SECTION 3270. Arkansas Code § 3-9-234(b), concerning the failure to
22 pay renewal fees or taxes, is amended to read as follows:

23 (b) If any permittee shall fail to remit the supplemental tax upon
24 gross receipts within the time provided in § 3-9-223, a penalty of twenty-
25 five percent (25%) shall be due and payable. If such taxes plus penalty are
26 not paid within thirty (30) days from the due date, the Director of the
27 Alcoholic Beverage Control Division shall revoke the permit of the permittee,
28 and the ~~Director~~ Secretary of the Department of Finance and Administration
29 shall seek recovery of the amount of such taxes and penalties due from the
30 permittee.

31

32 SECTION 3271. Arkansas Code § 4-60-102 is amended to read as follows:

33 4-60-102. Applicability.

34 This chapter does not apply to the laws governing the imposition of a
35 penalty for checks written on accounts which have insufficient funds and
36 which checks are payable to either the ~~Director~~ Secretary of the Department

1 of Finance and Administration or to the Department of Finance and
2 Administration for any taxes, licenses, or fees imposed by any laws of this
3 state.

4

5 SECTION 3272. Arkansas Code § 4-90-206(a)(4), concerning the
6 disclosure requirements when transferring a motor vehicle, is amended to read
7 as follows:

8 (4) The ~~Director~~ Secretary of the Department of Finance and
9 Administration shall adopt, pursuant to the Arkansas Administrative Procedure
10 Act, § 25-15-201 et seq., rules not inconsistent with this subchapter or
11 Title 49, Chapter 327 of the United States Code, or any rules promulgated
12 thereunder prescribing the manner in which the written disclosure shall be
13 made.

14

15 SECTION 3273. Arkansas Code § 4-90-206(b)(2)(B), concerning the
16 disclosure requirements when transferring a motor vehicle, is amended to read
17 as follows:

18 (B) The ~~director~~ secretary shall adopt, pursuant to the
19 Arkansas Administrative Procedure Act, § 25-15-201 et seq., rules not
20 inconsistent with this subchapter or Title 49, Chapter 327 of the United
21 States Code, or any rules promulgated thereunder prescribing the form of the
22 power of attorney.

23

24 SECTION 3274. Arkansas Code § 5-65-102(6), concerning the definition
25 of "sworn report" under the Omnibus DWI or BWI Act, is amended to read as
26 follows:

27 (6) "Sworn report" means a signed and written statement of a
28 certified law enforcement officer, under penalty of perjury, on a form
29 provided by the ~~Director~~ Secretary of the Department of Finance and
30 Administration;

31

32 SECTION 3275. Arkansas Code § 5-65-106(b), concerning the impoundment
33 of license plates, is amended to read as follows:

34 (b) If the court determines it is in the best interest of the
35 dependents of the person, the court shall instruct the ~~Director~~ Secretary of
36 the Department of Finance and Administration to issue a temporary substitute

1 motor vehicle license plate for the motor vehicle, and the temporary
2 substitute motor vehicle license plate shall indicate that the original motor
3 vehicle license plate has been impounded.

4
5 SECTION 3276. Arkansas Code § 5-65-401(3), concerning the definition
6 of "sworn report" under the laws governing an administrative driver's license
7 suspension, is amended to read as follows:

8 (3) "Sworn report" means a signed and written statement of a
9 certified law enforcement officer, under penalty of perjury, on a form
10 provided by the ~~Director~~ Secretary of the Department of Finance and
11 Administration.

12
13 SECTION 3277. Arkansas Code § 5-65-402(c)(1)(C), concerning the
14 surrender of a license or a permit to an arresting officer, is amended to
15 read as follows:

16 (C) The petition shall be served on the ~~Director~~ Secretary
17 of the Department of Finance and Administration under Rule 4 of the Arkansas
18 Rules of Civil Procedure.

19
20 SECTION 3278. Arkansas Code § 5-65-403(d)(1)(B), concerning a notice
21 and a receipt from an arresting officer, is amended to read as follows:

22 (B) Submitted by mail or in person to the ~~Director~~
23 Secretary of the Department of Finance and Administration or his or her
24 designated representative within seven (7) days of the issuance of the
25 receipt.

26
27 SECTION 3279. Arkansas Code § 5-65-403(k), concerning a notice and a
28 receipt from an arresting officer, is amended to read as follows:

29 (k) If the ~~director~~ secretary orders immobilization of a motor
30 vehicle, notice of immobilization shall be sent by first-class mail to any
31 persons, other than the arrested person, listed as an owner or co-owner of
32 the immobilized motor vehicle in the records of the Office of Motor Vehicle.

33
34 SECTION 3280. Arkansas Code § 6-13-618(b)(3), concerning the
35 organization and disbursing officer for school district boards of directors,
36 is amended to read as follows:

1 (3) Such a resolution must be filed with the county treasurer
2 and the ~~Director~~ Secretary of the Department of Finance and Administration.

3
4 SECTION 3281. Arkansas Code § 6-13-1006(d)(9)(C), concerning the board
5 of directors of education service cooperatives, is amended to read as
6 follows:

7 (C) Borrowing from other sources for limited or unusual
8 circumstances upon approval of the Commissioner of Elementary and Secondary
9 Education and ~~Director~~ the Secretary of the Department of Finance and
10 Administration; and

11
12 SECTION 3282. Arkansas Code § 6-17-406 is amended to read as follows:

13 6-17-406. License revocation generally – Superintendents and
14 supervisors.

15 The State Board of Education may revoke the license of any
16 superintendent or supervisor in any and every instance where the ~~Director~~
17 Secretary of the Department of Finance and Administration has found it
18 necessary to proceed upon the bond of the superintendent or supervisor to
19 recover funds wrongfully used. Revocation shall be mandatory in any and every
20 instance where there is recovery on the bond.

21
22 SECTION 3283. Arkansas Code § 6-17-911(b) and (c), concerning the
23 effect of failure to make records and settlements, are amended to read as
24 follows:

25 (b) If the county collector fails to make settlements with the county
26 treasurer as now provided by law, the county treasurer shall forthwith notify
27 the Commissioner of Elementary and Secondary Education and the ~~Director~~
28 Secretary of the Department of Finance and Administration of such failure.

29 (c)(1) If such delinquent settlement is not made within two (2) weeks,
30 the Treasurer of State shall withhold the monthly distribution of county aid
31 provided for under § 19-5-602(b) upon notification from the ~~Director~~
32 Secretary of the Department of Finance and Administration that the county has
33 failed to make such settlement.

34 (2) The monthly distribution shall be withheld until such
35 settlement is made to the satisfaction of the ~~director~~ secretary.

36

1 SECTION 3284. Arkansas Code § 6-21-104 is amended to read as follows:

2 6-21-104. Distribution of surplus commodities in school lunch program.

3 Upon the request of the State Board of Education and with the approval
4 of the ~~Director~~ Secretary of the Department of Finance and Administration,
5 the Department of Finance and Administration may administer the program of
6 distribution of surplus commodities in the school lunch program under such
7 arrangements with respect to the employment of personnel and the payment of
8 the salaries of personnel, and maintenance, as may be mutually agreeable with
9 the agencies above mentioned.

10
11 SECTION 3285. Arkansas Code § 8-7-906(e), concerning petroleum
12 environmental assurance fees, is amended to read as follows:

13 (e) The fee shall be remitted to the ~~Director~~ Secretary of the
14 Department of Finance and Administration at the time, in the manner, and on
15 forms prescribed by the ~~director~~ secretary and may be collected and remitted
16 at the same time and in the same manner as the motor fuels tax and special
17 motor fuels tax under § 26-55-101 et seq. and the Special Motor Fuels Tax
18 Law, § 26-56-101 et seq.

19
20 SECTION 3286. Arkansas Code § 8-7-906(g)(3), concerning petroleum
21 environmental assurance fees, is amended to read as follows:

22 (3) The commission shall review the Petroleum Storage Tank Trust
23 Fund balance, as adjusted to reflect the obligations and liabilities of the
24 Petroleum Storage Tank Trust Fund, at least quarterly and report the rate of
25 collection for the fee for the upcoming quarter to the ~~director~~ secretary.

26
27
28 SECTION 3287. The introductory language of Arkansas Code § 9-6-110 is
29 amended to read as follows:

30 The ~~Director~~ Secretary of the Department of Finance and Administration
31 or his or her designee shall provide an annual report by October 1 of each
32 year to the Chair of the Senate Interim Committee on Children and Youth and
33 the Chair of the House Committee on Aging, Children and Youth, Legislative
34 and Military Affairs containing the following information:

35
36 SECTION 3288. Arkansas Code § 10-3-220 is amended to read as follows:

1 10-3-220. Monitoring of changes made in federal income tax laws and
2 regulations – Reports of ~~director~~ secretary.

3 (a) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall monitor changes made in federal income tax laws and
5 regulations for the purpose of determining how the changes may affect
6 Arkansas income tax law and for the purpose of determining how the changes
7 differ from provisions adopted for Arkansas income tax purposes.

8 (b) The ~~director~~ secretary shall report his or her findings annually
9 to the House Committee on Revenue and Taxation and the Senate Committee on
10 Revenue and Taxation and may make such other reports to the House Committee
11 on Revenue and Taxation and the Senate Committee on Revenue and Taxation as
12 he or she deems necessary.

13
14 SECTION 3289. Arkansas Code § 10-4-410(c), concerning audit costs
15 incurred by Arkansas Legislative Audit, is amended to read as follows:

16 (c) If it is determined by the Legislative Joint Auditing Committee
17 that the reimbursement for the auditing of entities of the state is
18 appropriate, the Legislative Auditor and the ~~Director~~ Secretary of the
19 Department of Finance and Administration shall develop guidelines for
20 effecting proper budgetary and accounting procedures for the reimbursements.

21
22 SECTION 3290. Arkansas Code § 12-8-307(c)(2) and (3), concerning lease
23 funds and pledged revenues, are amended to read as follows:

24 (2) The pledged revenues shall be deposited into a bank or banks
25 selected by the ~~Department~~ Division of Arkansas State Police, as and when
26 received by the Commissioner of Motor Vehicles, the Office of Motor Vehicle,
27 the ~~Department~~ Division of Arkansas State Police, the Arkansas State Police
28 Commission, the ~~Director~~ Secretary of the Department of Finance and
29 Administration, or any other state agency.

30 (3) The pledged revenues shall be deposited to the credit of a
31 fund created and designated as the ~~Department~~ "Division of Arkansas State
32 Police Communications Equipment Lease Fund", referred to in this subchapter
33 as the "lease fund".

34
35 SECTION 3291. Arkansas Code § 12-10-326(d)(1), concerning prepaid
36 wireless E911 service charges, is amended to read as follows:

1 (d)(1) Except as provided in subdivision (d)(2) of this section, a
2 seller shall report and pay one hundred percent (100%) of the prepaid
3 wireless E911 charge plus any penalties and interest due to the ~~Director~~
4 Secretary of the Department of Finance and Administration in the same manner
5 and at the same time as the gross receipts tax under the Arkansas Gross
6 Receipts Act of 1941, § 26-52-101 et seq.

7
8 SECTION 3292. Arkansas Code § 12-30-304 is amended to read as follows:
9 12-30-304. Products – Purchase by state institutions.

10 (a) It shall be the duty of the various state institutions to
11 purchase, as far as possible, products grown or produced by the state upon
12 its ~~Department~~ Division of Correction and other farms, giving the state
13 preference wherever possible.

14 (b)(1) Sales shall be made at prevailing market prices and all
15 proceeds thereof shall be deposited with the Treasurer of State to the credit
16 of the ~~Department~~ Division of Correction Farm Fund.

17 (2) However, the ~~Director~~ Secretary of the Department of Finance
18 and Administration, by proper bookkeeping entries, may charge the institution
19 so purchasing and credit the ~~Department~~ Division of Correction account with
20 such amount.

21
22 SECTION 3293. Arkansas Code § 13-7-304 is amended to read as follows:
23 13-7-304. Commission accounts.

24 The members of the Historic Arkansas Museum Commission shall keep
25 strict account of all moneys received and disbursed by them and by their
26 order and shall file a statement thereof annually with the ~~Director~~ Secretary
27 of the Department of Finance and Administration, who shall properly check and
28 audit the statement of account and the books of the commission.

29
30 SECTION 3294. Arkansas Code § 14-43-607(e), concerning income taxes,
31 is amended to read as follows:

32 (e)(1)(A) The governing body of any city levying the tax authorized in
33 this section and the ~~Director~~ Secretary of the Department of Finance and
34 Administration are authorized and empowered to enter into a contractual
35 agreement whereby the ~~director~~ secretary shall collect any of the taxes
36 assessed by the city, whether by withholding of income tax or otherwise, and

1 remit them to the city.

2 (B) This agreement may also provide for a consideration to
3 be allowed the ~~director~~ secretary for services rendered in making such
4 collections.

5 (2) The ~~director~~ secretary may establish regulations concerning
6 the procedures for collecting these taxes by him or her.

7

8 SECTION 3295. Arkansas Code § 14-86-2003 is amended to read as
9 follows:

10 14-86-2003. Scope of examination.

11 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
12 Administration or any auditors appointed by him or her shall have power to
13 make a thorough examination into the affairs of a district specified in § 14-
14 86-2001 when called upon by the county judge.

15 (2)(A) The ~~director~~ secretary shall have access to all records,
16 books, accounts, papers, and documents concerning the district undergoing
17 such an audit.

18 (B) The ~~director~~ secretary is also authorized to:

19 (i) Examine, under oath, any officer, assistant,
20 clerk, or other person touching the matters he or she may be authorized to
21 inquire and examine; and

22 (ii) Summon and, by attachment, compel the
23 attendance of any person to testify, under oath, before him or her in
24 relation to the affairs of the district.

25 (b) The failure or refusal of any person to appear before the ~~director~~
26 secretary or to deliver to him or her any books, records, or other documents
27 shall subject the person to a fine of twenty-five dollars (\$25.00) for each
28 day he the person refuses or fails to comply with the request.

29

30 SECTION 3296. Arkansas Code § 14-164-303(6), concerning the definition
31 of "director" under the Local Government Bond Act of 1985, is repealed.

32 ~~(6) "Director" means the Director of the Department of Finance~~
33 ~~and Administration or any successor to the duties thereof and any authorized~~
34 ~~agent thereof;~~

35

36 SECTION 3297. Arkansas Code § 14-164-325 is amended to read as

1 follows:

2 14-164-325. Taxes not state revenues.

3 It is the express intent of the General Assembly that any tax levied
4 under the authority of this subchapter by a municipality or county to finance
5 capital improvements of a public nature or economic development projects
6 shall not constitute revenues of the state within the meaning of any
7 constitutional or statutory provisions, but the tax levied under this
8 subchapter shall at all times continue to be revenues of the particular
9 municipality or county notwithstanding the participation or involvement, for
10 the convenience of administration, by the ~~Director~~ Secretary of the
11 Department of Finance and Administration or the Treasurer of State in the
12 manner authorized in this subchapter in any phase of collection, holding, or
13 distribution of proceeds of any tax authorized under this subchapter.

14

15 SECTION 3298. Arkansas Code § 14-164-327(b), concerning capital
16 improvement bonds, local sales and use taxes, and levy, is amended to read as
17 follows:

18 (b) A certified copy of the ordinance or ordinances authorizing the
19 levy of a local sales and use tax or taxes and the issuance of bonds secured
20 by the taxes shall be provided to the ~~Director~~ Secretary of the Department of
21 Finance and Administration and to the Treasurer of State as soon as
22 practicable after the adoption of the taxes.

23

24 SECTION 3299. Arkansas Code § 14-164-329(a), concerning capital
25 improvement bonds, local sales and use tax , effective dates for imposition,
26 and termination of tax levy, is amended to read as follows:

27 (a) The levy of a local sales and use tax shall not be effective until
28 after the election has been held and the issuance of bonds has been approved
29 by the voters and the ~~Director~~ Secretary of the Department of Finance and
30 Administration has been given ninety (90) days' notice.

31

32 SECTION 3300. The introductory language of Arkansas Code § 14-164-
33 329(b), concerning capital improvement bonds, local sales and use tax ,
34 effective dates for imposition, and termination of tax levy, is amended to
35 read as follows:

36 (b) In order to provide time for the preparations for election set

1 forth in this section and to provide for the accomplishment of the
2 administrative duties of the ~~director~~ secretary, the following effective
3 dates are applicable with reference to any such ordinance levying such tax:
4

5 SECTION 3301. Arkansas Code § 14-164-329(b)(1), concerning capital
6 improvement bonds, local sales and use tax, effective dates for imposition,
7 and termination of tax levy, is amended to read as follows:

8 (1)(A) If an election challenge is not filed within thirty (30)
9 days of the date of publication of the proclamation of the results of the
10 election, the tax shall become effective on the first day of the first month
11 of the calendar quarter after the expiration of the thirty-day period for
12 challenge and after a minimum of sixty (60) days' notice has been provided by
13 the ~~director~~ secretary to sellers unless delayed under subdivision (b)(3) of
14 this section.

15 (B) A rate change on a purchase from a printed catalog in
16 which the purchaser computed the tax based on local tax rates published in
17 the catalog will be applicable on the first day of a calendar quarter after a
18 minimum of one hundred twenty (120) days' notice by the ~~director~~ secretary to
19 the sellers.

20 (C) For sales and use tax purposes only, a local boundary
21 change will become effective on the first day of a calendar quarter after a
22 minimum of sixty (60) days' notice by the ~~director~~ secretary to sellers.
23

24 SECTION 3302. Arkansas Code § 14-164-329(c)(2) and (3), concerning
25 capital improvement bonds, local sales and use tax, effective dates for
26 imposition, and termination of tax levy, are amended to read as follows:

27 (2) In order to provide for the accomplishment of the
28 administrative duties of the ~~director~~ secretary and to protect the owners of
29 the bonds, the tax shall be abolished on the first day of the calendar
30 quarter after the expiration of ninety (90) days from the date there is filed
31 with the ~~director~~ secretary a written statement signed by the chief executive
32 officer of the municipality or county levying the tax and by the trustee for
33 the bondholders, if a trustee is serving in such capacity, identifying the
34 tax and the bonds, in which either:

35 (A) The trustee certifies that the trustee has or will
36 have sufficient funds set aside to pay the principal of and interest on the

1 bonds when due at maturity or at redemption before maturity and the
2 municipality or county levying the tax certifies that the tax is not pledged
3 to any other bonds of such municipality or county; or

4 (B) The municipality or county levying the tax certifies
5 that there are no longer any bonds outstanding payable from tax collections.

6 (3) In the case of subdivision (c)(2)(B) of this section, there
7 shall be attached to the written statement proof satisfactory to the ~~director~~
8 secretary that there are no longer any bonds outstanding payable from tax
9 collections.

10
11 SECTION 3303. Arkansas Code § 14-164-330 is amended to read as
12 follows:

13 14-164-330. Capital improvement bonds – Local sales and use tax –
14 Notice to ~~Director~~ Secretary of the Department of Finance and Administration.

15 As soon as is feasible and no later than ten (10) days following each
16 of the events set forth in the ordinance with reference to the procedure for
17 the adoption or abolition of the local sales and use tax and the effective
18 dates of the action, the clerk shall notify the ~~Director~~ Secretary of the
19 Department of Finance and Administration of such event.

20
21 SECTION 3304. Arkansas Code § 14-164-333(a)(2), concerning capital
22 improvement bonds, local sales and use taxes, administration, and collection,
23 is amended to read as follows:

24 (2)(A) The ~~Director~~ Secretary of the Department of Finance and
25 Administration shall perform all functions incidental to the administration,
26 collection, enforcement, and operation of the tax, as provided in §§ 26-74-
27 201 – 26-74-219, 26-74-221, 26-74-315 – 26-74-317, 26-75-201 – 26-75-221, 26-
28 75-223, 26-75-317, and 26-75-318. Provided, however, to the extent the
29 provisions of § 14-164-329 conflict with any provisions of § 26-74-101 et
30 seq. or § 26-75-101 et seq., or any other law, § 14-164-329 shall be deemed
31 to supersede the conflicting statutes.

32 (B) The tax levied in this subchapter on new and used
33 motor vehicles shall be collected by the ~~director~~ secretary directly from the
34 purchaser in the manner prescribed in § 26-52-510.

35
36 SECTION 3305. Arkansas Code § 14-164-333(d), concerning capital

1 improvement bonds, local sales and use taxes, administration, and collection,
2 is amended to read as follows:

3 (d)(1) Each vendor who is liable for one (1) or more city sales or use
4 taxes shall report a combined city sales tax and a combined city use tax on
5 his or her sales and use tax report. The combined city sales tax is equal to
6 the sum of all sales taxes levied by a city under this subchapter or any
7 other provision of the Arkansas Code. The combined city use tax is equal to
8 the sum of all use taxes levied by a city under this subchapter or any other
9 provision of the Arkansas Code. This provision applies only to taxes
10 collected by the ~~director~~ secretary.

11 (2) Each vendor who is liable for one (1) or more county sales
12 or use taxes shall report a combined county sales tax and a combined county
13 use tax on his or her sales and use tax report. The combined county sales tax
14 is equal to the sum of all sales taxes levied by a county under this
15 subchapter or any other provision of the Arkansas Code. The combined county
16 use tax is equal to the sum of all use taxes levied by a county under this
17 subchapter or any other provision of the Arkansas Code. This provision
18 applies only to taxes collected by the ~~director~~ secretary.

19

20 SECTION 3306. Arkansas Code § 14-164-337(f)(1), concerning the pledge
21 of preexisting sales and use taxes, is amended to read as follows:

22 (f)(1) Any moneys collected which, as indicated by a certified copy of
23 an ordinance of the municipality or county previously filed with the ~~Director~~
24 Secretary of the Department of Finance and Administration and the Treasurer
25 of State, are pledged, under the provisions of any act, to secure the
26 retirement of bonds authorized by this subchapter, shall be transmitted by
27 the ~~director~~ secretary to the Treasurer of State.

28

29 SECTION 3307. Arkansas Code § 14-164-339(e)(1), concerning the
30 simultaneous pledge of local sales and use taxes, is amended to read as
31 follows:

32 (e)(1) Any moneys collected which, as indicated by a certified copy of
33 an ordinance of the municipality or county previously filed with the ~~Director~~
34 Secretary of the Department of Finance and Administration and the Treasurer
35 of State, are pledged, under the provisions of any act, to secure the
36 retirement of bonds authorized by this subchapter, shall be transmitted by

1 the ~~director~~ secretary to the Treasurer of State.

2
3 SECTION 3308. Arkansas Code § 14-164-341(d), concerning bonds for
4 surface transportation projects, is amended to read as follows:

5 (d) A certified copy of the ordinance authorizing the issuance of
6 bonds under this section shall be filed with the ~~Director~~ Secretary of the
7 Department of Finance and Administration and the Treasurer of State as soon
8 as practicable after the approval of the issuance of the bonds by the voters.

9
10 SECTION 3309. Arkansas Code § 14-174-102(3), concerning the definition
11 of "director" under the laws governing the economic development tax, is
12 repealed.

13 ~~(3) "Director" means the Director of the Department of Finance~~
14 ~~and Administration or any of his authorized agents;~~

15
16 SECTION 3310. Arkansas Code § 14-174-109(b)(1), concerning public
17 corporations for economic development, is amended to read as follows:

18 (b)(1) On receipt from the ~~Director~~ Secretary of the Department of
19 Finance and Administration of the net proceeds of the sales and use tax
20 levied or authorized under this subchapter, the local government shall
21 deliver all of the proceeds to the corporation to use in carrying out its
22 functions.

23
24 SECTION 3311. Arkansas Code § 15-4-1210(c), concerning the
25 commencement and continuation of existence regarding a newly formed company,
26 is amended to read as follows:

27 (c) A copy of the articles of incorporation or articles of
28 organization so endorsed by the commissioner, as prescribed in § 15-4-1209,
29 shall be filed for recordation in the office of the county clerk in the
30 county in which the principal office of the company is located, and a copy
31 shall be delivered to the ~~Director~~ Secretary of the Department of Finance and
32 Administration.

33
34 SECTION 3312. Arkansas Code § 15-4-1227(f), concerning the dissolution
35 of a company formed under the County and Regional Industrial Development
36 Company Act, is amended to read as follows:

1 (f) A copy of the certificate of dissolution as accepted and endorsed
2 by the commissioner, as prescribed in subsection (c) of this section, shall
3 be filed for recordation in the office of the county clerk in the county in
4 which the principal office of the company is located, and a copy shall be
5 delivered to the ~~Director~~ Secretary of the Department of Finance and
6 Administration.

7
8 SECTION 3313. Arkansas Code § 15-4-1228(d), concerning investigations
9 by the Bank Commissioner or Securities Commissioner and injunctions, is
10 amended to read as follows:

11 (d) A copy of all reports of the investigation or other proceedings
12 conducted pursuant to this section shall be forwarded to the ~~Director~~
13 Secretary of the Department of Finance and Administration.

14
15 SECTION 3314. Arkansas Code § 15-4-2008(a)(3), concerning the
16 disbursement of motion picture rebate incentives, is amended to read as
17 follows:

18 (3) Provide certification to the ~~Director~~ Secretary of the
19 Department of Finance and Administration specifying the amount to be remitted
20 to the production company within one hundred twenty (120) days after the
21 final expenditure report has been submitted.

22
23 SECTION 3315. The introductory language of Arkansas Code § 15-4-
24 2008(b), concerning the disbursement of motion picture rebate incentives, is
25 amended to read as follows:

26 (b) The ~~director~~ secretary, within ten (10) working days after the
27 receipt of the certification from the division, shall remit the rebate to:

28
29 SECTION 3316. Arkansas Code § 15-5-1203(5) and (6), concerning the
30 definitions of "director" and "pledged fees" under the Petroleum Storage Tank
31 Trust Fund Bond Financing Act, are amended to read as follows:

32 ~~(5) "Director" means the Director of the Department of Finance~~
33 ~~and Administration;~~

34 (6) "Pledged fees" means the fees collected by the ~~director~~
35 Secretary of the Department of Finance and Administration pursuant to § 8-7-
36 906;

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SECTION 3317. Arkansas Code § 15-5-1205(c)(1), concerning the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund and pledged fees, is amended to read as follows:

(c)(1) Commencing on the first day of the month next succeeding the issuance of bonds by the authority, the pledged fees shall not be deposited into the State Treasury and shall not be subject to legislative appropriations, but, as received by the ~~Director~~ Secretary of the Department of Finance and Administration or the Treasurer of State, shall be deposited into a bank or banks selected by the authority and approved by the Treasurer of State.

SECTION 3318. Arkansas Code § 15-5-1302(5), concerning the definition of "director" under the Affordable Neighborhood Housing Tax Credit Act of 1997, is repealed.

~~(5) "Director" means the Director of the Department of Finance and Administration;~~

SECTION 3319. Arkansas Code § 15-5-1303(i) and (j), concerning affordable housing assistance activities, business firms proposing to provide housing assistance, affordable housing units and procedure for approval and tax credits, are amended to read as follows:

(i) A copy of the decision of the authority or its delegate shall be transmitted to the ~~Director~~ Secretary of the Department of Finance and Administration and to the Governor.

(j) A copy of the certification approved by the authority and a statement of the total amount of credits approved by the authority, the amount of credits previously taken by the taxpayer, and the amount being claimed for the current tax year shall be filed in a manner and form designated by the ~~director~~ secretary for any tax year in which a tax credit is being claimed.

SECTION 3320. Arkansas Code § 15-5-1305 is amended to read as follows:
15-5-1305. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration and the Arkansas Development Finance Authority shall promulgate rules and

1 regulations necessary to administer the provisions of this subchapter. No
2 rule or portion of a rule promulgated under the authority of this subchapter
3 shall become effective until it has been approved by the ~~director~~ secretary
4 in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
5 seq.

6
7 SECTION 3321. Arkansas Code § 15-5-1603(5), concerning the definition
8 of "review committee" under the Arkansas Risk Capital Matching Fund Act of
9 2007, is amended to read as follows:

10 (5) "Review committee" means a committee composed of the
11 President of the Arkansas Development Finance Authority and the ~~Executive~~
12 Director of the Arkansas Economic Development Commission;

13
14 SECTION 3322. Arkansas Code § 15-5-1603(8), concerning the definition
15 of "Venture Capital Investment Trust" under the Arkansas Risk Capital
16 Matching Fund Act of 2007, is amended to read as follows:

17 (8) "Venture Capital Investment Trust" means the public trust
18 formed July 21, 2003, under § 28-72-201 et seq., the trustees of which are
19 the President of the Arkansas Development Finance Authority, the ~~Executive~~
20 Director of the Arkansas Economic Development Commission, and the ~~Director~~
21 Secretary of the Department of Finance and Administration, and that has as a
22 principal purpose increasing the availability of equity capital and near-
23 equity capital for emerging and expanding enterprises in the State of
24 Arkansas.

25
26 SECTION 3323. Arkansas Code § 15-11-507 is amended to read as follows:

27 15-11-507. Tourism attraction project sales tax credit.

28 (a) Upon receiving notification from the ~~Executive~~ Director of the
29 Arkansas Economic Development Commission that an approved company has entered
30 into a tourism attraction project agreement and is entitled to the sales tax
31 credits provided by this subchapter, the ~~Director~~ Secretary of the Department
32 of Finance and Administration shall provide the approved company with such
33 forms and instructions as are necessary to claim those credits.

34 (b)(1)(A)(i)(a) An approved company shall be entitled to a credit if
35 the approved company certifies to the ~~Director~~ Secretary of the Department of
36 Finance and Administration that it has expended at least five hundred

1 thousand dollars (\$500,000) in a high-unemployment county and one million
2 dollars (\$1,000,000) in all other counties in approved costs and the
3 ~~Executive~~ Director of the Arkansas Economic Development Commission certifies
4 that the approved company is in compliance with this subchapter.

5 (b)(1) The ~~Director~~ Secretary of the
6 Department of Finance and Administration shall then issue a sales tax credit
7 memorandum to the approved company equal to fifteen percent (15%) of the
8 approved costs.

9 (2) However, in high-unemployment
10 counties the ~~Director~~ Secretary of the Department of Finance and
11 Administration shall issue a credit memorandum to the approved company equal
12 to twenty-five percent (25%) of the approved costs.

13 (c) The sales tax credit memorandum shall not
14 include an offset of the tourism tax levied under § 26-63-401 et seq.

15 (ii) Subsequent requests for credit for additional
16 certified approved costs shall be filed with the Department of Finance and
17 Administration during the term of the agreement.

18 (B)(i) The ~~Director~~ Secretary of the Department of Finance
19 and Administration may require proof of expenditures.

20 (ii) Additional credit memoranda may be issued as
21 the approved company certifies additional expenditures of approved costs.

22 (2)(A) No sales tax credit memorandum shall be issued for any
23 approved costs expended after the expiration of two (2) years from the date
24 the agreement was signed by the ~~Executive~~ Director of the Arkansas Economic
25 Development Commission and the approved company.

26 (B) However, the ~~Executive~~ Director of the Arkansas
27 Economic Development Commission, with the advice and consent of the ~~Director~~
28 Secretary of the Department of Finance and Administration, may authorize
29 sales tax credits for approved costs expended up to four (4) years from the
30 date the agreement was signed if the ~~Executive~~ Director of the Arkansas
31 Economic Development Commission determines that the failure to complete the
32 tourism attraction project within two (2) years resulted from:

33 (i) Unanticipated and unavoidable delay in the
34 construction of the tourism attraction project;

35 (ii) The tourism attraction project, as originally
36 planned, will require more than two (2) years to complete; or

1 (iii) A change in business ownership or business
2 structure resulting from a merger or acquisition.

3 (c) The credit memorandum issued pursuant to subsection (b) of this
4 section may be used to offset a portion of the reported state sales, or gross
5 receipts, tax liability of the approved company for all sales tax reporting
6 periods following the issuance of the credit memorandum, subject to the
7 following limitations:

8 (1) Only increased state sales tax liability as defined in this
9 subchapter may be offset by the issued credit;

10 (2)(A) An approved company whose agreement provides that it
11 shall expend approved costs in excess of five hundred thousand dollars
12 (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000)
13 in all other counties shall be entitled to use one hundred percent (100%) of
14 the issued credit to offset increased state sales tax liability during the
15 first year if its tax liability is equal to or greater than the amount issued
16 in the state sales tax credit memorandum.

17 (B) Unused credits may be carried forward for a period of
18 nine (9) years;

19 (3) All issued credit memoranda shall expire at the end of the
20 month following the expiration of the agreement as provided in § 15-11-506;
21 and

22 (4) Except as provided in § 15-11-511, credit memoranda shall
23 not be used to offset any tax other than state sales tax.

24 (d) The approved company shall have no obligation to refund or
25 otherwise return any amount of this credit to the person from whom the sales
26 tax was collected.

27 (e) By April 1 of each year, the ~~Director~~ Secretary of the Department
28 of Finance and Administration shall certify to the ~~Executive~~ Director of the
29 Arkansas Economic Development Commission the state sales tax liability of the
30 approved companies receiving inducements under this section and the amount of
31 state sales tax credits taken during the preceding calendar year.

32 (f)(1) The ~~Director~~ Secretary of the Department of Finance and
33 Administration may promulgate administrative regulations as are necessary for
34 the proper administration of this subchapter.

35 (2) The ~~Director~~ Secretary of the Department of Finance and
36 Administration may also develop such forms and instructions as are necessary

1 for an approved company to claim the sales tax credit provided by this
2 subchapter.

3 (g)(1) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall have the authority to obtain any information necessary
5 from the approved company and the ~~Executive~~ Director of the Arkansas Economic
6 Development Commission to verify that approved companies have received the
7 proper amounts of sales tax credits as authorized by this subchapter.

8 (2) The ~~Director~~ Secretary of the Department of Finance and
9 Administration shall demand the repayment of any credits taken in excess of
10 the credit allowed by this subchapter.

11

12 SECTION 3324. Arkansas Code § 15-12-103(a), concerning disposition of
13 revenues and grants, is amended to read as follows:

14 (a) All revenues derived from the additional tax levied by § 26-60-
15 105(b) shall be deposited by the ~~Director~~ Secretary of the Department of
16 Finance and Administration into the State Treasury as special revenues.

17

18 SECTION 3325. Arkansas Code § 15-12-103(b)(2), concerning disposition
19 of revenues and grants, is amended to read as follows:

20 (2) Ten percent (10%) of the net amount shall be distributed to
21 the Parks and Tourism Fund Account, to be used by the Department of Parks,
22 Heritage, and Tourism, on approval of the Parks, Recreation, and Tourism
23 Grant Advisory Committee, for making grants for outdoor recreational purposes
24 to cities and counties of this state in accordance with the plan; and

25

26 SECTION 3326. The introductory language of Arkansas Code § 15-13-203,
27 concerning allowances for variance of the biofuel standard, is amended to
28 read as follows:

29 The ~~Director~~ Secretary of the Department of Finance and Administration
30 may grant a waiver for a variance from the biofuel standard under § 15-13-202
31 if the applicant demonstrates one (1) or more of the following:

32

33 SECTION 3327. Arkansas Code § 15-13-205 is amended to read as follows:
34 15-13-205. Rules.

35 The ~~Director~~ Secretary of the Department of Finance and Administration
36 shall promulgate rules and regulations to provide for the administration of

1 this subchapter.

2

3 SECTION 3328. Arkansas Code § 15-72-608(b), concerning the rules and
4 regulations concerning taxes and credits for natural gas, is amended to read
5 as follows:

6 (b) The ~~Director~~ Secretary of the Department of Finance and
7 Administration shall have authority to make reasonable rules and regulations
8 for the collection of the taxes and allowance of credit as provided in this
9 subchapter.

10

11 SECTION 3329. Arkansas Code § 15-74-401(a)(2), regarding penalties for
12 the sale of nontested gasoline, is amended to read as follows:

13 (2) Fails to comply with all the requirements of any section of
14 this subchapter or rules and regulations promulgated by the ~~Director~~
15 Secretary of the Department of Finance and Administration under authority of
16 this subchapter.

17

18 SECTION 3330. Arkansas Code § 15-74-401(b), regarding penalties for
19 the sale of nontested gasoline, is amended to read as follows:

20 (b) However, the ~~director~~ secretary, or any of his or her deputies or
21 inspectors, shall have the power to compromise the penalty herein fixed by
22 imposing the penalty as the merits of the case demand.

23

24 SECTION 3331. Arkansas Code § 15-74-402 is amended to read as follows:
25 15-74-402. Rules and regulations.

26 The ~~Director~~ Secretary of the Department of Finance and Administration
27 shall have authority to promulgate such rules and regulations in regard to
28 the enforcement of this subchapter as shall not be inconsistent with the
29 provisions of the subchapter which in his or her judgment will best serve to
30 carry out the purpose thereof.

31

32 SECTION 3332. Arkansas Code § 15-74-408 is amended to read as follows:
33 15-74-408. Inspection of dealer records.

34 The person, firm, or corporation who receives motor vehicle fuel must
35 keep in his or her possession and file in an orderly manner statements
36 showing distillation tests, bills of lading, or invoices, as the case may be,

1 covering each quantity received, and those items are to be subject to
2 inspection by the ~~Director~~ Secretary of the Department of Finance and
3 Administration or his or her authorized agents.
4

5 SECTION 3333. Arkansas Code § 15-74-409(c), concerning the testing of
6 oil or gasoline prior to sale, is amended to read as follows:

7 (c) When any person, firm, or corporation shall receive within this
8 state any of the petroleum oils mentioned in this subchapter for the
9 different purposes mentioned in this subchapter, he or she shall at once
10 notify the ~~Director~~ Secretary of the Department of Finance and
11 Administration, or one (1) of his or her deputies or inspectors, of the
12 quantity of the oils received and request the inspection of the oils. If for
13 any reason the deputies or inspectors are not able to promptly test the
14 petroleum oils, the person, firm, or corporation, or any authorized agent
15 thereof, may subject the products of petroleum to the test prescribed by the
16 provisions of this subchapter, and on furnishing the ~~director~~ secretary, or
17 any deputy or inspector, an affidavit that the oils have been subjected to
18 and have met the requirements of the test prescribed by this subchapter, he
19 or she shall be entitled to receive from the ~~director~~ secretary, or deputy or
20 inspector, a certificate showing that the test has been made. The person,
21 firm, or corporation, or any duly authorized agent thereof, may then sell or
22 offer for sale the oils.
23

24 SECTION 3334. Arkansas Code § 15-74-410 is amended to read as follows:
25 15-74-410. Records of inspections – Disposition of funds.

26 (a) The ~~Director~~ Secretary of the Department of Finance and
27 Administration, or his or her deputies or inspectors, whose duty it is to
28 enforce this subchapter, shall keep a correct record of all oils and fluids
29 inspected by them in a book provided for by the state for that purpose. They
30 shall have the power to make any necessary investigation to determine whether
31 or not any oils have been inspected before being offered for sale.

32 (b) The ~~director~~ secretary, his or her deputies, or his or her
33 inspectors, shall have the right to administer oaths and inspect any and all
34 records having reference to the receiving, forwarding, transportation, or
35 sale of any oils or fluids.

36 (c) All records kept by the ~~director~~ secretary, or his or her deputies

1 or inspectors, pertaining to the inspection of oils and fluids mentioned in
2 this subchapter shall be open to the inspection of any interested party.

3
4 SECTION 3335. Arkansas Code § 17-21-101(3), concerning the definition
5 of "director" under the laws governing beauty pageants, is repealed.

6 ~~(3) "Director" means the Director of the Department of Finance~~
7 ~~and Administration;~~

8
9 SECTION 3336. Arkansas Code § 17-21-103 is amended to read as follows:
10 17-21-103. Rules and regulations.

11 The ~~Director~~ Secretary of the Department of Finance and Administration
12 may adopt rules and regulations to administer the provisions of this chapter.
13 The rules and regulations shall be adopted in accordance with the Arkansas
14 Administrative Procedure Act, § 25-15-201 et seq.

15
16 SECTION 3337. Arkansas Code § 17-21-201(a), concerning the
17 registration of operators, renewal, and fee, is amended to read as follows:

18 (a) No person shall conduct a beauty pageant in Arkansas unless
19 registered with the ~~Director~~ Secretary of the Department of Finance and
20 Administration on forms prescribed by him or her. Registration in another
21 state as a beauty pageant operator shall not be effective in this state.

22
23 SECTION 3338. Arkansas Code § 17-21-202 is amended to read as follows:
24 17-21-202. Bond.

25 (a) Except as provided in § 17-21-203, each operator shall, at the
26 time of registration, file and have approved by the ~~Director~~ Secretary of the
27 Department of Finance and Administration, a bond in which the candidate for
28 registration shall be the principal obligor in the sum of ten thousand
29 dollars (\$10,000).

30 (b) The bond shall be payable to the State of Arkansas for the use of
31 the ~~director~~ secretary and any person who may have a cause of action against
32 the obligor of the bond for any losses caused by a failure to conduct a
33 beauty pageant.

34
35 SECTION 3339. Arkansas Code § 17-21-205 is amended to read as follows:
36 17-21-205. Denial, suspension, revocation of registration.

1 The ~~Director~~ Secretary of the Department of Finance and Administration
2 may deny, suspend, or revoke a registration for:

- 3 (1) A violation of any of the provisions of this chapter; or
4 (2) The making of a false statement on the registration
5 application form.

6
7 SECTION 3340. Arkansas Code § 17-25-205 is amended to read as follows:
8 17-25-205. Disposition of funds.

9 The fees of the Contractors Licensing Board shall be deposited into
10 banks to be used by the board in the manner prescribed by law, similar to the
11 accounts of other examining and licensing boards of the state, and shall be
12 audited under rules and regulations prescribed by the ~~Director~~ Secretary of
13 the Department of Finance and Administration.

14
15 SECTION 3341. Arkansas Code § 17-52-313(a)(2), concerning the
16 disposition of funds by the Secretary of the Arkansas Home Inspector
17 Registration Board, is amended to read as follows:

18 (2) The ~~secretary~~ Secretary of the Arkansas Home Inspector
19 Registration Board shall institute a system of books and financial records
20 satisfactory to the ~~Director~~ Secretary of the Department of Finance and
21 Administration.

22
23 SECTION 3342. Arkansas Code § 17-52-313(a)(2), concerning the
24 disposition of funds by the Secretary of the Arkansas Home Inspector
25 Registration Board, is amended to read as follows:

26 (4) The ~~secretary~~ Secretary of the Arkansas Home Inspector
27 Registration Board shall deposit all funds of the board that he or she
28 receives with the State Treasury within forty-eight (48) hours, excluding
29 holidays and Sundays, after he or she receives the funds.

30
31 SECTION 3343. Arkansas Code § 19-1-201 is amended to read as follows:
32 19-1-201. Chief Fiscal Officer of the State.

33 The ~~Director~~ Secretary of the Department of Finance and Administration
34 shall be the Chief Fiscal Officer of the State.

35
36 SECTION 3344. Arkansas Code § 19-1-202 is amended to read as follows:

1 19-1-202. Director.

2 (a) The ~~Director~~ Secretary of the Department of Finance and
3 Administration shall be at least thirty (30) years of age, of good moral
4 character, and of demonstrated ability in the field of his or her employment.

5 (b) Before entering upon his or her duties of employment, the ~~director~~
6 Secretary of the Department of Finance and Administration shall take,
7 subscribe, and file in the office of the Secretary of State an oath or
8 affirmation to support the United States Constitution and the Arkansas
9 Constitution and to faithfully discharge the duties of the employment upon
10 which he or she is about to enter.

11 (c)(1) The ~~director~~ Secretary of the Department of Finance and
12 Administration shall furnish bond to the state, with a corporate surety
13 thereon, in the penal sum of ten thousand dollars (\$10,000), conditioned upon
14 the faithful performance of his or her duties and for the proper accounting
15 for all funds received and disbursed by him or her.

16 (2) The ~~director~~ Secretary of the Department of Finance and
17 Administration shall be the disbursing agent for the Department of Finance
18 and Administration but shall not be required to furnish additional bond as
19 that disbursing agent, nor shall he or she be required to furnish additional
20 bond as disbursing agent of other appropriations for which he or she may be
21 designated disbursing agent under or pursuant to any law of this state unless
22 so directed by the General Assembly.

23 (3) The ~~director~~ Secretary of the Department of Finance and
24 Administration, if he or she deems it advisable, may require other employees
25 of his or her office to furnish bond, in such penal sums as he or she shall
26 determine.

27 (4)(A) The original of the bond of the ~~director~~ Secretary of the
28 Department of Finance and Administration shall be filed in the office of the
29 Secretary of State, and an executed counterpart thereof shall be filed in the
30 office of the Auditor of State.

31 (B) Any bonds which may be required of employees shall be
32 filed with the ~~director~~ Secretary of the Department of Finance and
33 Administration.

34
35 SECTION 3345. The introductory language of Arkansas Code § 19-1-203,
36 concerning the Deputy Director of the Department of Finance and

1 Administration, is amended to read as follows:

2 The Deputy Director of the Department of Finance and Administration,
3 acting under the authority granted to him or her by the ~~Director~~ Secretary of
4 the Department of Finance and Administration, and under the laws relating to
5 budget and accounting procedure, shall:

6

7 SECTION 3346. Arkansas Code § 19-1-204(a), concerning personnel of the
8 Department of Finance and Administration, is amended to read as follows:

9 (a) Except as otherwise provided for by this subchapter, all of the
10 personnel of the Department of Finance and Administration shall be employed
11 by and serve at the pleasure of the ~~Director~~ Secretary of the Department of
12 Finance and Administration.

13

14 SECTION 3347. Arkansas Code § 19-1-206 is amended to read as follows:
15 19-1-206. Seal.

16 The Governor shall procure an official seal for the Department of
17 Finance and Administration. Every paper executed by the ~~Director~~ Secretary of
18 the Department of Finance and Administration or by any other employee of the
19 department and sealed with its official seal shall be received in evidence in
20 any court or other tribunal and may be recorded in the same manner and with
21 like effect as deeds regularly acknowledged.

22

23 SECTION 3348. The introductory language of Arkansas Code § 19-1-207,
24 concerning a general accounting system to be enforced by the Director of the
25 Department of Finance and Administration, is amended to read as follows:

26 The ~~Director~~ Secretary of the Department of Finance and Administration
27 shall:

28

29 SECTION 3349. Arkansas Code § 19-1-208 is amended to read as follows:
30 19-1-208. Rules and regulations.

31 The ~~Director~~ Secretary of the Department of Finance and Administration
32 is vested with the authority to make such reasonable rules and regulations,
33 not inconsistent with the law, as shall be necessary or desirable for the
34 orderly discharge of the duties vested in the Department of Finance and
35 Administration.

36

1 SECTION 3350. Arkansas Code § 19-1-209(a), concerning the publication
2 of regulations, is amended to read as follows:

3 (a) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall publish and furnish copies to all state agencies of such
5 regulations as are issued by him or her, pursuant to the provisions of law,
6 providing for a general accounting procedure.

7
8 SECTION 3351. The introductory language of Arkansas Code § 19-1-
9 209(b), concerning the publication of regulations, is amended to read as
10 follows:

11 (b) The ~~director~~ secretary shall also publish, not less often than
12 biennially, a financial report covering the fiscal affairs of the state and
13 state agencies and shall make the report available to:

14
15 SECTION 3352. Arkansas Code § 19-1-210 is amended to read as follows:
16 19-1-210. Recordkeeping.

17 (a) For the purpose of effectively carrying out the fiscal procedures
18 provided for by law, the ~~Director~~ Secretary of the Department of Finance and
19 Administration shall have the authority to install such recordkeeping and
20 other procedures in his or her own office and in other state offices and
21 departments as he or she shall deem necessary or advisable.

22 (b) The ~~director~~ secretary shall have the authority to require from
23 any state agency any fiscal information which will be necessary for providing
24 adequate records in his or her office and shall prescribe uniform records and
25 forms for all vouchers and other documents which are to be transmitted to the
26 Department of Finance and Administration.

27
28 SECTION 3353. Arkansas Code § 19-1-211 is amended to read as follows:
29 19-1-211. Investigations.

30 (a)(1) In any matter within the jurisdiction of the Department of
31 Finance and Administration, the ~~Director~~ Secretary of the Department of
32 Finance and Administration shall have the power to make investigations and
33 may delegate that power to any division or section head of the department.

34 (2) For this purpose, the ~~director~~ secretary shall have the
35 power to subpoena witnesses and require the production of any books, records,
36 papers, or documents that may be material or relevant as evidence and to

1 administer oaths to and take the testimony of witnesses.

2 (b)(1) In case of disobedience to any subpoena or other process, the
3 ~~director~~ secretary may invoke the aid, with the written approval of the
4 Governor, of the Pulaski County Circuit Court in requiring the testimony of
5 witnesses and the production of evidence, books, records, papers, or
6 documents.

7 (2)(A) In case of refusal to obey the subpoena issued to any
8 person, firm, or corporation, the circuit court shall issue an order calling
9 such person, firm, or corporation to appear before the ~~director~~ secretary or
10 other employee designated by the ~~director~~ secretary and to produce all books
11 and papers so ordered and give evidence touching the matter in question.

12 (B) Any failure to obey the order of the circuit court may
13 be punished by the circuit court as contempt of the circuit court.

14 (c) A subpoena for a witness may be issued by the ~~director~~ secretary
15 or by any division or section head of the department in whom any such
16 authority may have been vested by the ~~director~~ secretary and shall be served
17 as provided by law for the service of other subpoenas.

18 (d)(1)(A) The failure or refusal of any witness to appear or to
19 produce any books, papers, or documents required by the ~~director~~ secretary
20 and to submit them for inspection or the refusal to answer any relevant
21 question propounded by the ~~director~~ secretary shall constitute a violation
22 punishable by a fine of not less than one hundred dollars (\$100) nor more
23 than five hundred dollars (\$500).

24 (B) Each failure or refusal by any witness to appear or
25 produce any such books, papers, or documents shall constitute a separate
26 offense.

27 (2) False testimony given in any such inquiry shall constitute
28 perjury punishable as provided by law.

29

30 SECTION 3354. The introductory language of Arkansas Code § 19-1-212,
31 concerning the duty and responsibility of the Director of the Department of
32 Finance and Administration to avoid deficit, is amended to read as follows:

33 It shall be the duty and responsibility of the ~~Director~~ Secretary of
34 the Department of Finance and Administration to:

35

36 SECTION 3355. Arkansas Code § 19-1-213(a), concerning the leasing of

1 state property, is amended to read as follows:

2 (a) The ~~Director~~ Secretary of the Department of Finance and
3 Administration may lease, with approval of the Governor, any state property,
4 real or personal, which is not needed for public use, and the leasing of
5 which is not prohibited by law, where the authority to lease the property is
6 not vested in any other state agency.

7

8 SECTION 3356. Arkansas Code § 19-1-214 is amended to read as follows:
9 19-1-214. Federal gifts and surplusage.

10 The ~~Director~~ Secretary of the Department of Finance and Administration
11 may enter into any contract with the United States ~~of America~~ Government or
12 with any agency thereof for the purpose of accepting gifts and for the
13 acquisition of surplus materials or property upon such terms and conditions
14 as may be agreed upon without regard to the provisions of this subchapter or
15 any other law that requires advertisement for bids or the soliciting or
16 receiving of competitive bids.

17

18 SECTION 3357. Arkansas Code § 19-1-405 is amended to read as follows:
19 19-1-405. State agency employees as disbursing agents.

20 (a)(1) In the event the executive head of any state agency designates
21 some full-time employee to act as his or her agent in the disbursement of
22 funds under his or her control, the agent shall furnish additional bond to be
23 fixed by the ~~Director~~ Secretary of the Department of Finance and
24 Administration.

25 (2) The executive head of the state agency shall notify the
26 ~~director~~ secretary and the Auditor of State in writing of the designation and
27 shall furnish to the ~~director~~ secretary and the Auditor of State a sample of
28 the signature of the agent.

29 (b) In the event appropriations are made available to a state agency
30 or to a nongovernment agency or activity and no disbursing agent is provided
31 for by law, then the ~~director~~ secretary and the Auditor of State shall
32 designate a person to act as disbursing agent and fix the amount of bond for
33 such purposes.

34

35 SECTION 3358. Arkansas Code § 19-1-608 is amended to read as follows:
36 19-1-608. Notification of Department of Finance and Administration -

1 Review.

2 (a) Within thirty (30) days after the expiration of the time period
3 for the public officer or employee to effect corrective or remedial action,
4 the agency shall transfer to the ~~Director~~ Secretary of the Department of
5 Finance and Administration a document containing a summary of the violation
6 and any corrective remedial action taken.

7 (b)(1) The ~~director~~ secretary shall review the summaries of violations
8 received. The ~~director~~ secretary may:

9 (A) Accept the summary and approve the corrective or
10 remedial action by the agency;

11 (B) Request additional information regarding the violation
12 and corrective or remedial action by the agency; or

13 (C) Impose additional corrective or remedial action upon
14 public officers and employees of executive agencies as provided in § 19-1-
15 609.

16 (2) Quarterly, the ~~director~~ secretary shall submit a summary of
17 all violations of the fiscal responsibility and management laws, including
18 any corrective or remedial action by the agency or the ~~director~~ secretary, to
19 the Governor and members of the General Assembly.

20

21 SECTION 3359. Arkansas Code § 19-1-609 is amended to read as follows:

22 19-1-609. Executive agencies.

23 (a) Before the ~~Director~~ Secretary of the Department of Finance and
24 Administration may impose additional corrective or remedial action regarding
25 public officers or employees of executive agencies, the ~~director~~ secretary
26 shall conduct an investigation regarding any violation. The public officer or
27 employee shall be notified and given the opportunity for a hearing conducted
28 by the ~~director~~ secretary regarding any violation.

29 (b) The ~~director~~ secretary may impose any one (1) or more of the
30 following as additional corrective or remedial action:

31 (1) Oral or written warnings or reprimands;

32 (2) Suspension with or without pay for specified periods of
33 time; or

34 (3) Termination of employment.

35

36 SECTION 3360. Arkansas Code § 19-1-610(a), concerning an investigation

1 and suit by the Attorney General, is amended to read as follows:

2 (a) The ~~Director~~ Secretary of the Department of Finance and
3 Administration, the Legislative Joint Auditing Committee, or the Legislative
4 Council may request the office of the Attorney General to review any
5 information concerning any violation of the fiscal responsibility and
6 management laws of the state in order to determine whether legal action is
7 appropriate.

8

9 SECTION 3361. Arkansas Code § 19-2-203(a), concerning receipts by the
10 Department of Finance and Administration and additional penalties, is amended
11 to read as follows:

12 (a) If any person, firm, corporation, partnership, or business makes
13 payment to the Department of Finance and Administration for any license or
14 fees imposed by the laws of this state by means of a check, draft, or order
15 drawn on any bank, person, firm, or corporation, and the check, draft, or
16 order is returned by the bank, person, firm, or corporation without having
17 been paid in full, then the ~~Director~~ Secretary of the Department of Finance
18 and Administration is authorized and empowered to impose a penalty. The
19 penalty shall be in the amount of either ten percent (10%) of the face amount
20 of the check, draft, or order or twenty dollars (\$20.00), whichever is
21 greater, against the maker or drawer of the check, draft, or order.

22

23 SECTION 3362. Arkansas Code § 19-2-307 is amended to read as follows:
24 19-2-307. Rules and regulations.

25 The ~~Director~~ Secretary of the Department of Finance and Administration
26 is authorized to promulgate such rules and regulations as deemed necessary to
27 implement the provisions and intent of this subchapter.

28

29 SECTION 3363. Arkansas Code § 19-3-701(b)(5), concerning the creation
30 and members of the State Board of Finance, is amended to read as follows:

31 (5) The ~~Director~~ Secretary of the Department of Finance and
32 Administration;

33

34 SECTION 3364. Arkansas Code § 19-4-102(a)(2)(J), concerning the
35 purpose of the General Accounting and Budgetary Procedures Law, is amended to
36 read as follows:

1 (J) Further define the powers and duties of the ~~Director~~
2 Secretary of the Department of Finance and Administration, sometimes referred
3 to as the Chief Fiscal Officer of the State, the Auditor of State, and the
4 Treasurer of State in connection with general accounting, budgetary, and
5 fiscal procedures.

6
7 SECTION 3365. The introductory language of Arkansas Code § 19-4-302,
8 concerning budget information forms, is amended to read as follows:

9 To accomplish his or her duties and responsibilities, the ~~Director~~
10 Secretary of the Department of Finance and Administration, in cooperation
11 with the Legislative Council, shall design budget information forms so that
12 comparative data of the last fiscal year, the current fiscal year, and the
13 next biennium are presented so that state agencies can best express budgetary
14 and program information that will be most useful to the Governor or Governor-
15 elect and the General Assembly in order to facilitate program formulation,
16 execution, and accountability by:

17
18 SECTION 3366. The introductory language of Arkansas Code § 19-4-303,
19 concerning budget estimates by the Director of the Department of Finance and
20 Administration and the Legislative Council, is amended to read as follows:

21 The ~~Director~~ Secretary of the Department of Finance and Administration,
22 in cooperation with the Legislative Council, shall:

23
24 SECTION 3367. The introductory language of Arkansas Code § 19-4-
25 304(a), concerning regular and fiscal session preparations, is amended to
26 read as follows:

27 (a) Immediately after July 1 of each even-numbered calendar year, or
28 earlier if determined necessary, the ~~Director~~ Secretary of the Department of
29 Finance and Administration shall:

30
31 SECTION 3368. The introductory language of Arkansas Code § 19-4-
32 304(b), concerning regular and fiscal session preparations, is amended to
33 read as follows:

34 (b) The ~~director~~ secretary shall submit the annual revenue forecast to
35 the Legislative Council:

36

1 SECTION 3369. Arkansas Code § 19-4-521(2)(B), concerning the
2 definition of personal services for employees under the state accounting and
3 budgetary procedures, is amended to read as follows:

4 (B) This subclassification may be used to pay part-time or
5 temporary employees who are employed for more than one thousand five hundred
6 (1,500) hours per fiscal year if specific authorization is provided by law
7 and if such use is within standards established by the ~~Director~~ Secretary of
8 the Department of Finance and Administration.

9
10 SECTION 3370. Arkansas Code § 19-4-1405(e)(1)(A), concerning bidding
11 procedures, is amended to read as follows:

12 (e)(1)(A) When it is obvious from examination of the bid document that
13 it was the intent of a bidder to submit a responsive bid and because of a
14 scrivener's error, the bid, if accepted, would create a serious financial
15 loss to the bidder, the ~~Director of the Department of Finance and~~
16 ~~Administration~~ Secretary of the Department of Transformation and Shared
17 Services may relieve the bidder from responsibility under his or her bond and
18 may reject the bid.

19
20 SECTION 3371. Arkansas Code § 19-4-1405(e)(3)(A), concerning bidding
21 procedures, is amended to read as follows:

22 (3)(A) To receive relief under subdivision (e)(1) of this
23 section, the bidder must serve written notice to the ~~director~~ secretary or to
24 the chief executive officer or his or her designee of a public institution of
25 higher education exempt from review and approval of the division any time
26 after the bid opening, but no later than seventy-two (72) hours after
27 receiving the intent to award, excluding Saturdays, Sundays, and holidays.

28
29 SECTION 3372. Arkansas Code § 19-4-1405(e)(4), concerning bidding
30 procedures, is amended to read as follows:

31 (4) In the event the ~~director~~ secretary or the chief executive
32 officer or his or her designee of a public institution of higher education
33 exempt from review and approval of the division has relieved the bidder from
34 responsibility under his or her bond, action on the remaining bids should be
35 considered as though the withdrawn bid had not been received.

36

1 SECTION 3373. Arkansas Code § 19-4-1902 is amended to read as follows:
2 19-4-1902. Preliminary or informal proposals.

3 Preliminary or informal proposals which do not commit personnel, space,
4 facilities, or state funds may be submitted directly to the granting source.
5 However, when the grant requested, if approved, would result in the
6 commitment of state personnel, space, facilities, equipment, or funds, or the
7 program to be proposed by the state agency with the resources from the
8 federal grant has not received specific legislative authorization through an
9 appropriation or specific enabling legislation, the requesting agency shall
10 notify, in writing, the ~~Director~~ Secretary of the Department of Finance and
11 Administration that such preliminary or informal proposal is being made and
12 shall briefly describe it.
13

14 SECTION 3374. Arkansas Code § 19-4-1904(a), concerning the receipt of
15 federal funds, is amended to read as follows:

16 (a) When any federal funds, grants, aids, or reimbursements, including
17 unsolicited funds, are received by a state agency, the Department of Finance
18 and Administration shall be notified on forms to be prescribed by the
19 ~~Director~~ Secretary of the Department of Finance and Administration.
20

21 SECTION 3375. Arkansas Code § 19-4-1907(a), concerning quarterly
22 reports to be filed with the Legislative Council by the Director of the
23 Department of Finance and Administration, is amended to read as follows:

24 (a) The ~~Director~~ Secretary of the Department of Finance and
25 Administration shall file quarterly reports with the Legislative Council
26 itemizing and summarizing all contracts or agreements entered into by the
27 Governor with the federal government, or any agencies or instrumentalities
28 thereof, whereby the State of Arkansas is to participate in any program
29 involving the expenditure of federal funds. These reports shall be filed,
30 whether or not state funds are obligated in connection therewith, with
31 respect to new federal programs or expansions of existing federal programs
32 which were not in existence or which were not implemented by state
33 participation, at the time of the adjournment of the regular session of the
34 General Assembly and entered into prior to the convening of the next regular
35 session of the General Assembly.
36

1 SECTION 3376. Arkansas Code § 19-4-1908(a), concerning the review and
2 continuance of programs by the Legislative Council, is amended to read as
3 follows:

4 (a) The Legislative Council shall review the quarterly reports filed
5 by the ~~Director~~ Secretary of the Department of Finance and Administration as
6 required in this subchapter. The Legislative Council shall submit such
7 findings and recommendations to each succeeding regular session of the
8 General Assembly for enabling legislation to implement, restrict, or prohibit
9 the state's participation in any such new federal program or expanded federal
10 program which was implemented by contract or agreement entered into by the
11 Governor subsequent to the adjournment of the preceding session of the
12 General Assembly.

13
14 SECTION 3377. Arkansas Code § 19-5-1136(a), concerning the Animal
15 Rescue and Shelter Trust Fund, is amended to read as follows:

16 (a) As used in this section, "registered governmentally owned animal
17 rescue shelter" means an animal rescue or shelter owned by a county or
18 municipality that has submitted notice to the Department of Finance and
19 Administration as required under subsection (f) of this section and is on the
20 official list of registered governmentally owned animal rescue shelters
21 prepared by the ~~Director~~ Secretary of the Department of Finance and
22 Administration under subsection (f) of this section.

23
24 SECTION 3378. Arkansas Code § 19-5-1136(f)(1)(A), concerning the
25 Animal Rescue and Shelter Trust Fund, is amended to read as follows:

26 (f)(1)(A) On or before October 1, 2009, a county or municipality that
27 owns one (1) or more animal rescues or animal shelters on the date that
28 notification is mailed shall notify the ~~director~~ secretary in writing to
29 qualify for funding under this section.

30
31 SECTION 3379. Arkansas Code § 19-5-1136(f)(2)(A), concerning the
32 Animal Rescue and Shelter Trust Fund, is amended to read as follows:

33 (2)(A) On or before October 15, 2009, the ~~director~~ secretary
34 shall provide the Treasurer of State with a list of each county and
35 municipality that has registered as owning an animal rescue shelter.

36

1 SECTION 3380. Arkansas Code § 19-6-459(1), concerning the Commercial
2 Driver License Fund, is amended to read as follows:

3 (1) Section 19-6-301(148), to be used to establish and maintain
4 the Arkansas Commercial Driver License Program and for other related purposes
5 as required by the ~~Director~~ Secretary of the Department of Finance and
6 Administration in carrying out the functions, powers, and duties of the
7 Revenue Division of the Department of Finance and Administration, as set out
8 in the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq. ;
9 and

10
11 SECTION 3381. Arkansas Code § 19-7-604(a)(2), concerning federal
12 grants, aids, and reimbursement procedures, is amended to read as follows:

13 (2) Applications shall include, in a manner prescribed by the
14 ~~Director~~ Secretary of the Department of Finance and Administration, a summary
15 of the proposed project.

16
17 SECTION 3382. Arkansas Code § 19-7-604(b)(2), concerning federal
18 grants, aids, and reimbursement procedures, is amended to read as follows:

19 (2) In order to eliminate overlap, inefficiency, or a violation
20 of legislative intent, the ~~director~~ secretary may require a review of the
21 proposal, soliciting comment from other agencies which might be affected, and
22 may require the suspension of negotiations until the review is completed.

23
24 SECTION 3383. Arkansas Code § 19-7-604(d)(1), concerning federal
25 grants, aids, and reimbursement procedures, is amended to read as follows:

26 (1) When any state agency receives notification of an award of
27 any federal funds, grants, aids, or reimbursements, including unsolicited
28 funds, the department shall be notified on forms to be prescribed by the
29 ~~director~~ secretary.

30
31 SECTION 3384. Arkansas Code § 19-7-610 is amended to read as follows:
32 19-7-610. Advice of legislative departments.

33 It is recognized by the legislative and executive departments of
34 government that some of the executive departments' authority or
35 responsibility as provided in this subchapter should possibly have the
36 legislative departments' concurrence before proceeding with such authority or

1 responsibility. The legislative department, via the Legislative Joint
2 Auditing Committee, the Legislative Council, joint interim committees,
3 interim committees, or subcommittees of the foregoing may request the
4 ~~Director~~ Secretary of the Department of Finance and Administration to seek
5 the legislative department's advice before exercising certain authority or
6 responsibility as authorized by this subchapter.

7
8 SECTION 3385. Arkansas Code § 19-7-101(a), concerning reports to the
9 Legislative Council, is amended to read as follows:

10 (a) The ~~Director~~ Secretary of the Department of Finance and
11 Administration shall file quarterly reports with the Legislative Council
12 itemizing and summarizing all contracts or agreements entered into by the
13 Governor with the federal government, or any agencies or instrumentalities
14 thereof, whereby the State of Arkansas is to participate in any program
15 involving the expenditure of federal funds, whether or not state funds are
16 obligated in connection therewith, with respect to new federal programs, or
17 expansion of existing federal programs which were not in existence or which
18 were not implemented by state participation, at the time of the adjournment
19 of the regular session of the General Assembly and entered into prior to the
20 convening of the next regular session of the General Assembly.

21
22 SECTION 3386. Arkansas Code § 19-7-102(a), concerning legislative
23 review of federal programs, is amended to read as follows:

24 (a) The Legislative Council shall review the quarterly reports filed
25 by the ~~Director~~ Secretary of the Department of Finance and Administration as
26 required in § 19-7-101 and shall submit its findings and recommendations to
27 each succeeding regular session of the General Assembly for enabling
28 legislation to implement, restrict, or prohibit the state's participation in
29 any such new federal program or expanded federal program which was
30 implemented by contract or agreement entered into by the Governor subsequent
31 to the adjournment of the preceding session of the General Assembly.

32
33 SECTION 3387. Arkansas Code § 19-10-101 is amended to read as follows:
34 19-10-101. Investigatory powers.

35 The ~~Director~~ Secretary of the Department of Finance and Administration,
36 as soon as the ~~director~~ secretary learns of facts from which he or she

1 concludes that a claim, other than for personal injury or death of a state
2 employee, may be filed under this chapter against the state or any of its
3 agencies, departments, or institutions, whether or not the claim has already
4 been filed, is authorized and directed to investigate and take evidence
5 concerning the claim. The ~~director~~ secretary is, for this purpose, authorized
6 to exercise all necessary investigatory powers conferred upon him or her by
7 this chapter. All information acquired by the ~~director~~ secretary shall be
8 made available to the Arkansas State Claims Commission prior to the hearing
9 and determination thereof.

10
11 SECTION 3388. Arkansas Code § 19-10-406 is amended to read as follows:
12 19-10-406. Report of findings.

13 Upon the allowance or disallowance of any claim, the Workers'
14 Compensation Commission shall immediately transmit a copy of its findings to
15 the ~~Director~~ Secretary of the Department of Finance and Administration and
16 interested parties.

17
18 SECTION 3389. Arkansas Code § 19-11-271 is amended to read as follows:
19 19-11-271. Compliance reporting.

20 (a) Each report required under this subchapter shall be copied to the
21 ~~Director~~ Secretary of the Department of Finance and Administration, who shall
22 review each report for compliance with the fiscal responsibility and
23 management laws of the state under the State Fiscal Management Responsibility
24 Act, § 19-1-601 et seq.

25 (b) If the ~~director~~ secretary determines that a state agency, agency
26 procurement official, or state official or employee may be in violation of
27 the fiscal responsibility and management laws of the state under the State
28 Fiscal Management Responsibility Act, § 19-1-601 et seq., the ~~director~~
29 secretary shall notify the chief executive officer of the relevant state
30 agency.

31
32 SECTION 3390. Arkansas Code § 19-11-705(b) and (c), concerning an
33 employee's conflict of interest, are amended to read as follows:

34 (b) Financial Interest in a Blind Trust. Where an employee or any
35 member of the employee's immediate family holds a financial interest in a
36 blind trust, the employee shall not be deemed to have a conflict of interest

1 with regard to matters pertaining to that financial interest if disclosure of
2 the existence of the blind trust has been made to the ~~Director~~ Secretary of
3 the Department of Finance and Administration.

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

12
13 SECTION 3391. Arkansas Code § 19-11-706 is amended to read as follows:
14 19-11-706. Employee disclosure requirements.

15 (a) Disclosure of Benefit Received from Contract. Any employee who
16 has or obtains any benefit from any state contract with a business in which
17 the employee has a financial interest shall report such benefit to the
18 ~~Director~~ Secretary of the Department of Finance and Administration. However,
19 this section shall not apply to a contract with a business where the
20 employee's interest in the business has been placed in a disclosed blind
21 trust.

22 (b) Failure to Disclose Benefit Received. Any employee who knows or
23 should have known of such benefit and fails to report the benefit to the
24 ~~director~~ secretary is in breach of the ethical standards of this section.

25
26 SECTION 3392. The introductory language of Arkansas Code § 19-11-
27 712(b), concerning the civil and administrative remedies against employees
28 who breach ethical standards, is amended to read as follows:

29 (b) Supplemental Remedies. In addition to existing remedies for
30 breach of the ethical standards of this subchapter, or regulations
31 promulgated under this subchapter, the ~~Director~~ Secretary of the Department
32 of Finance and Administration may impose any one (1) or more of the
33 following:

34
35 SECTION 3393. The introductory language of Arkansas Code § 19-11-
36 713(b), concerning the civil and administrative remedies against nonemployees

1 who breach ethical standards, is amended to read as follows:

2 (b) Supplemental Remedies. In addition to the existing remedies for
3 breach of the ethical standards of this subchapter, or regulations
4 promulgated under this subchapter, the ~~Director~~ Secretary of the Department
5 of Finance and Administration may impose any one (1) or more of the
6 following:

7

8 SECTION 3394. Arkansas Code § 19-11-715 is amended to read as follows:

9 19-11-715. Duties of ~~Director~~ Secretary of the Department of Finance
10 and Administration.

11 (a) Regulations. The ~~Director~~ Secretary of the Department of Finance
12 and Administration shall promulgate regulations to implement this subchapter
13 and shall do so in accordance with this subchapter and the applicable
14 provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

15 (b) Advisory Opinions. On written request of employees or contractors
16 and in consultation with the Attorney General, the ~~director~~ secretary may
17 render written advisory opinions regarding the appropriateness of the course
18 of conduct to be followed in proposed transactions. Such requests and
19 advisory opinions may be duly published in the manner in which regulations of
20 this state are published. Compliance with the requirements of a duly
21 promulgated advisory opinion of the ~~director~~ secretary shall be deemed to
22 constitute compliance with the ethical standards of this subchapter.

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

30

31 SECTION 3395. Arkansas Code § 19-11-716(b)(1), concerning
32 participation in business incubators, regulations, and guidelines, is amended
33 to read as follows:

34 (b)(1) The ~~Director~~ Secretary of the Department of Finance and
35 Administration shall promulgate rules and regulations pursuant to the
36 procedure for adoption as provided under the Arkansas Administrative

1 Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a
2 program allowing admittance to business incubators by faculty or staff of
3 state-supported institutions of higher education or admittance by companies
4 in which faculty or staff may hold an ownership interest.

5
6 SECTION 3396. Arkansas Code § 19-11-1014 is amended to read as
7 follows:

8 19-11-1014. Compliance reporting.

9 (a) Each report required under this subchapter shall be copied to the
10 ~~Director~~ Secretary of the Department of Finance and Administration, who shall
11 review each report for compliance with the fiscal responsibility and
12 management laws of the state under the State Fiscal Management Responsibility
13 Act, § 19-1-601 et seq.

14 (b) If the ~~director~~ secretary determines that a state agency, agency
15 procurement official, or state official or employee may be in violation of
16 the fiscal responsibility and management laws of the state under the State
17 Fiscal Management Responsibility Act, § 19-1-601 et seq., the ~~director~~
18 secretary shall notify the chief executive officer of the relevant state
19 agency.

20
21 SECTION 3397. Arkansas Code § 20-9-305(a)(1), concerning annual
22 reports by nonprofit hospitals, is amended to read as follows:

23 (a)(1) Any nonprofit hospital association or corporation organized
24 under the laws of this state that operates and maintains a hospital facility
25 in this state primarily for providing hospital services for the employees of
26 any corporation or company engaged in interstate commerce shall file annually
27 with the ~~Director~~ Secretary of the Department of Finance and Administration a
28 detailed report of income, fees, charges, and contributions from all sources
29 received by it during the year, together with the expenses and disbursements
30 of the corporation or association during the year.

31
32 SECTION 3398. Arkansas Code § 20-17-502(c), concerning the Organ Donor
33 Awareness Education Trust Fund, is amended to read as follows:

34 (c) The ~~Director~~ Secretary of the Department of Finance and
35 Administration may accept any gifts, grants, bequests, devises, and donations
36 made to the State of Arkansas for the purposes of organ donor awareness

1 education. Moneys received for the purposes stated in this section shall be
2 deposited into the fund.

3
4 SECTION 3399. Arkansas Code § 20-17-502(e), concerning the Organ Donor
5 Awareness Education Trust Fund, is amended to read as follows:

6 (e) The ~~director~~ secretary shall grant funds available and
7 appropriated from the fund to the Arkansas Regional Organ Recovery Agency,
8 Inc. or its successor agency to be used for educational or informational
9 materials and other related costs associated with informing or educating the
10 public about organ donations and organ donation awareness.

11
12 SECTION 3400. Arkansas Code § 20-27-2105(c), concerning certification
13 and product change regarding cigarettes, is amended to read as follows:

14 (c) The Director of Arkansas Tobacco Control shall make the
15 certifications available to the Attorney General and the ~~Director~~ Secretary
16 of the Department of Finance and Administration for purposes consistent with
17 this subchapter.

18
19 SECTION 3401. The introductory language of Arkansas Code § 20-27-
20 2107(f)(1), concerning penalties for selling cigarettes other than by a
21 retail sale, is amended to read as follows:

22 (f)(1) An authorized representative of the ~~Director~~ Secretary of the
23 Department of Finance and Administration or the Director of Arkansas Tobacco
24 Control may seize and take possession of cigarettes:

25
26 SECTION 3402. Arkansas Code § 20-27-2108(b), concerning implementation
27 of the Arkansas Cigarette Fire Safety Standard Act, is amended to read as
28 follows:

29 (b)(1) The ~~Director~~ Secretary of the Department of Finance and
30 Administration, the Director of Arkansas Tobacco Control, and their
31 employees, in the regular course of conducting inspections of wholesalers and
32 retailers, as authorized under the Arkansas Tobacco Products Tax Act of 1977,
33 § 26-57-201 et seq., may inspect cigarettes to determine if the cigarettes
34 are marked as required by § 20-27-2106.

35 (2) If the ~~Director~~ Secretary of the Department of Finance and
36 Administration discovers cigarettes that are not marked as required, the

1 ~~Director~~ Secretary of the Department of Finance and Administration shall
2 notify the Director of Arkansas Tobacco Control.

3
4 SECTION 3403. Arkansas Code § 20-27-2109 is amended to read as
5 follows:

6 20-27-2109. Inspection.

7 (a) To enforce the provisions of this subchapter, the Attorney
8 General, the ~~Director~~ Secretary of the Department of Finance and
9 Administration, the Director of Arkansas Tobacco Control, and their
10 authorized representatives may examine the books, papers, invoices, and other
11 records of a person in possession, control, or occupancy of premises where
12 cigarettes are placed, stored, sold, or offered for sale, as well as the
13 stock of cigarettes on the premises.

14 (b) Every person in possession, control, or occupancy of premises
15 where cigarettes are placed, stored, sold, or offered for sale shall give the
16 Attorney General, the ~~Director~~ Secretary of the Department of Finance and
17 Administration, the Director of Arkansas Tobacco Control, and their
18 authorized representatives the means, facilities, and opportunity for the
19 examinations authorized by this section.

20
21 SECTION 3404. Arkansas Code § 20-79-206(b), concerning the operation
22 of rehabilitation facilities by Arkansas Rehabilitation Services, is amended
23 to read as follows:

24 (b) Gifts, grants, fees for services, income from the sale of products
25 or items of manufacture or handwork, and donations may be deposited into one
26 (1) or more banks and expended by the appropriate division of the Department
27 of Human Services, in compliance with the rules and regulations of the
28 ~~Director~~ Secretary of the Department of Finance and Administration, in the
29 establishment and operation of rehabilitation facilities and such other
30 program services as may be determined by the appropriate division of the
31 Department of Human Services, which are consistent with the purposes of this
32 subchapter.

33
34 SECTION 3405. Arkansas Code § 21-1-404(a), concerning the rules,
35 regulations, and disclosure statements regarding the Director of the
36 Department of Finance and Administration, is amended to read as follows:

1 (a) The ~~Director~~ Secretary of the Department of Finance and
2 Administration is authorized to promulgate and implement any necessary rules,
3 regulations, or policies to ensure compliance with this subchapter subject to
4 the prior review and approval of the Joint Budget Committee during
5 legislative sessions and the Legislative Council between legislative
6 sessions.

7
8 SECTION 3406. Arkansas Code § 21-1-704(c)(2)(A)(ii), concerning
9 nonbinding mediation, is amended to read as follows:

10 (ii) The mediator shall report within ten (10)
11 business days of the nonbinding mediation his or her suggested resolution to
12 the ~~Director~~ Secretary of the Department of Finance and Administration.
13

14 SECTION 3407. Arkansas Code § 21-2-705(a)(3) and (4), concerning the
15 creation of the Governmental Bonding Board, are amended to read as follows:

16 (3) The Commissioner of Elementary and Secondary Education;

17 (4) The ~~Director~~ Secretary of the Department of Finance and
18 Administration; and
19

20 SECTION 3408. Arkansas Code § 21-2-705(b)(1), concerning the creation
21 of the Governmental Bonding Board, is amended to read as follows:

22 (b)(1) The members of the board shall receive no compensation for
23 their services, but members other than the Commissioner of Elementary and
24 Secondary Education, the ~~Director~~ Secretary of the Department of Finance and
25 Administration, and the Insurance Commissioner may receive expense
26 reimbursement in accordance with § 25-16-901 et seq.
27

28 SECTION 3409. Arkansas Code § 21-2-710(a)(1)(A), concerning billing
29 certification, payment, and deposits regarding the Governmental Bonding
30 Board, is amended to read as follows:

31 (1)(A) Department of Finance and Administration. Upon receipt of
32 this certification, the ~~Director~~ Secretary of the Department of Finance and
33 Administration shall pay it from funds specifically appropriated for it by
34 the General Assembly or from other funds available therefor.
35

36 SECTION 3410. Arkansas Code § 21-3-802(d)(2), concerning the

1 recruitment of retired employees, is amended to read as follows:

2 (2) Upon receiving certification of the cost by the Executive
3 Director of the Arkansas Public Employees' Retirement System, the ~~Director~~
4 Secretary of the Department of Finance and Administration shall transfer the
5 actuarial cost from the fund of the agency that employed the person under the
6 program to the Arkansas Public Employees' Retirement System Fund.

7

8 SECTION 3411. The introductory language of Arkansas Code § 21-4-
9 214(g), concerning the catastrophic leave program, is amended to read as
10 follows:

11 (g) The ~~Director~~ Secretary of the Department of Finance and
12 Administration, or the ~~director's~~ secretary's designee, shall establish
13 policies and procedures:

14

15 SECTION 3412. Arkansas Code § 21-5-402(a)(1)(D) and (E), concerning
16 the creation and members of the State and Public School Life and Health
17 Insurance Board, are amended to read as follows:

18 (D) The Commissioner of Elementary and Secondary Education
19 or his or her designee;

20 (E) The ~~Director~~ Secretary of the Department of Finance
21 and Administration or his or her designee;

22

23 SECTION 3413. The introductory language of Arkansas Code § 21-5-
24 511(f), concerning the automatic enrollment in deferred compensation plans,
25 is amended to read as follows:

26 (f) The ~~Director~~ Secretary of the Department of Finance and
27 Administration shall promulgate rules to:

28

29 SECTION 3414. Arkansas Code § 21-11-105(a)(2), concerning the
30 Suggestion Award Board, is amended to read as follows:

31 (2) The membership of the board shall consist of the ~~Director~~
32 Secretary of the Department of Finance and Administration, the ~~Personnel~~
33 ~~Director~~ State Personnel Administrator, who shall serve as chair, and the
34 cochairs of the Legislative Council.

35

36 SECTION 3415. Arkansas Code § 22-3-1902(a), concerning rules regarding

1 the Sustainable Design Program for State Agencies, is amended to read as
2 follows:

3 (a) The ~~Director~~ Secretary of the Department of ~~Finance and~~
4 ~~Administration~~ Transformation and Shared Services shall promulgate rules for
5 the implementation of the Sustainable Building Design Program for State
6 Agencies.

7
8 SECTION 3416. Arkansas Code § 22-6-601(h)(2)(A)(i)(a), concerning the
9 sale procedure of state lands, is amended to read as follows:

10 (2)(A)(i)(a) Upon approval by the Governor, lands may be sold to
11 the highest responsible bidder for less than the amount of the appraisal if
12 the bid process has been utilized and it has been determined and recommended
13 by the agency director and the ~~Director of the Department of Finance and~~
14 ~~Administration~~ Secretary of the Department of Transformation and Shared
15 Services that further solicitation of bids is unnecessary.

16
17 SECTION 3417. Arkansas Code § 22-6-601(k)(2), concerning the procedure
18 for the sale of state lands, is amended to read as follows:

19 (2) The ~~Director of the Department of Finance and Administration~~
20 Secretary of the Department of Transformation and Shared Services shall
21 forward a recommendation to the Governor.

22
23 SECTION 3418. Arkansas Code § 22-8-101 is amended to read as follows:
24 22-8-101. Registration of state-owned motor vehicles – Report.

25 (a)(1) In order that a complete inventory of all state-owned motor
26 vehicles is maintained, every state agency, including the Arkansas Department
27 of Transportation, the Arkansas State Game and Fish Commission, the
28 ~~Department~~ Division of Arkansas State Police, the Arkansas National Guard,
29 and all constitutional offices shall annually register each motor vehicle
30 owned by the State of Arkansas with the ~~Director~~ Secretary of the Department
31 of Finance and Administration in a manner prescribed by the ~~director~~
32 secretary.

33 (2) The registration shall include a description of each motor
34 vehicle, including the year, make, model, license number, vehicle
35 identification number, and other information which the ~~director~~ secretary
36 might require.

1 (3) Whenever any state agency sells or disposes of a motor
2 vehicle, a complete record thereof shall be furnished to the ~~director~~
3 secretary as authorization for the removal of the vehicle from the official
4 state inventory.

5 (4) Whenever any state agency acquires a new or additional motor
6 vehicle, the information required by this subsection to be placed in the
7 state inventory shall be furnished to the ~~director~~ secretary within ten (10)
8 days after the acquisition of the vehicle by the agency.

9 (5) The ~~director~~ secretary shall keep the inventory of motor
10 vehicles owned by the State of Arkansas and its agencies current at all
11 times, categorized in accordance with the motor vehicles owned by each of the
12 respective state agencies.

13 (b)(1) The ~~director~~ secretary shall make an annual report to the
14 Legislative Council as to the number of motor vehicles owned by the State of
15 Arkansas.

16 (2) The report shall include a comparison of the current
17 inventory of motor vehicles with an inventory of the preceding year.

18
19 SECTION 3419. Arkansas Code § 22-8-205(c) and (d), concerning the
20 allocation of vehicles and priority listing, are amended to read as follows:

21 (c) The ~~Director~~ Secretary of the Department of Finance and
22 Administration, through the Marketing and Redistribution Section, shall have
23 the authority to reassign a vehicle from a state agency to another state
24 agency based upon need, age, condition, utilization, and justification but
25 not to decrease a state agency's actual number of vehicles owned.

26 (d) The ~~director~~ secretary shall review the schedule of prioritized
27 ranking for acquiring vehicles, and he or she shall have the authority to
28 make changes, as he or she deems necessary, to the priority listing. He or
29 she shall then forward the priority listing to the Governor for his or her
30 approval or modification.

31
32 SECTION 3420. Arkansas Code § 22-8-206(a), concerning the purchase of
33 automobiles by the Director of the Department of Finance and Administration,
34 is amended to read as follows:

35 (a) The ~~Director~~ Secretary of the Department of Finance and
36 Administration shall purchase vehicles for state agencies from moneys as

1 appropriated and made available by the General Assembly.

2
3 SECTION 3421. Arkansas Code § 22-8-207 is amended to read as follows:
4 22-8-207. Purchase from qualified vendors.

5 The ~~Director~~ Secretary of the Department of Finance and Administration
6 shall have the authority to purchase new or used vehicles from qualified
7 vendors in accordance with the Arkansas Procurement Law, § 19-11-201 et seq.

8
9 SECTION 3422. Arkansas Code § 22-8-209 is amended to read as follows:
10 22-8-209. Rules and regulations.

11 The ~~Director~~ Secretary of the Department of Finance and Administration,
12 through his or her disbursing officer, is authorized to promulgate such rules
13 and regulations as deemed necessary to implement the provisions and intent of
14 this subchapter.

15
16 SECTION 3423. Arkansas Code § 23-13-307(a), concerning the revocation
17 of a license, permit, or certificate, is amended to read as follows:

18 (a) In the event the Arkansas Department of Transportation finds that
19 the defendant is guilty upon any complaint filed and proceeding had, and that
20 the provisions of § 23-13-102 or the rules, regulations, or orders of the
21 Arkansas Department of Transportation have been willfully and knowingly
22 violated and that a motor vehicle was used in the violation, the Arkansas
23 Department of Transportation shall forthwith deliver a certified copy of its
24 findings and order to the ~~Director~~ Secretary of the Department of Finance and
25 Administration.

26
27 SECTION 3424. Arkansas Code § 23-13-603(a), concerning the
28 implementation and administration of the duties regarding the Unified Carrier
29 Registration Act of 2005, is amended to read as follows:

30 (a) The ~~Director~~ Secretary of the Department of Finance and
31 Administration has oversight over the implementation and administration of
32 the Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et
33 seq.

34
35 SECTION 3425. The introductory language of Arkansas Code § 23-13-
36 603(b), concerning the implementation and administration of the duties

1 regarding the Unified Carrier Registration Act, is amended to read as
2 follows:

3 (b) The ~~director~~ secretary is vested with the following powers and has
4 the following duties:

5
6 SECTION 3426. Arkansas Code § 23-13-604(a), concerning registration
7 fees to be collected by the Director of the Department of Finance and
8 Administration, is amended to read as follows:

9 (a) Any fees collected by the ~~Director~~ Secretary of the Department of
10 Finance and Administration under this section shall be classified as special
11 revenues and shall be deposited into the State Treasury.

12

13 SECTION 3427. The introductory language of Arkansas Code § 23-13-
14 604(c), concerning registration fees to be collected by the Director of the
15 Department of Finance and Administration, is amended to read as follows:

16 (c) The net amount of the fees collected by the ~~director~~ secretary
17 under this section shall be:

18

19 SECTION 3428. Arkansas Code § 23-17-413 is amended to read as follows:
20 23-17-413. Optional provision of database to vendors.

21 In order to assign the place of primary use for mobile
22 telecommunications services pursuant to the Mobile Telecommunications
23 Sourcing Act, Pub. L. No. 106-252, the ~~Director~~ Secretary of the Department
24 of Finance and Administration may choose whether to furnish vendors with a
25 database that matches addresses with taxing jurisdictions or to allow vendors
26 to employ an enhanced zip code of at least nine (9) digits in lieu of
27 providing a database.

28

29 SECTION 3429. Arkansas Code § 23-110-105(a), concerning racing passes,
30 is amended to read as follows:

31 (a) The ~~Director~~ Secretary of the Department of Finance and
32 Administration shall set a maximum number of racing passes to be printed and
33 issued annually, and it shall not be less than the number printed in 1990.

34

35 SECTION 3430. Arkansas Code § 23-110-202 is amended to read as
36 follows:

1 23-110-202. Officers.

2 (a) The Governor shall from time to time select from the membership of
3 the Arkansas Racing Commission a chair and a vice chair.

4 (b)(1) The ~~Director~~ Secretary of the Department of Finance and
5 Administration shall be ex officio ~~secretary~~ director of the commission
6 unless the Governor shall designate another person from the Revenue Division
7 of the Department of Finance and Administration to serve in that capacity,
8 but the ~~Secretary~~ Director of the Arkansas Racing Commission shall not be a
9 member of the commission nor shall he or she have a vote on matters coming
10 before it.

11 (2) The ~~secretary~~ director shall be the commission's executive
12 officer and shall administer the provisions of this chapter and the rules,
13 regulations, and orders established under this chapter.

14 (3) By resolution duly adopted, the commission may delegate to
15 the ~~secretary~~ director any of the powers or duties vested in or imposed upon
16 the commission by this chapter, and the delegated powers and duties may be
17 exercised by the ~~secretary~~ director in the name of the commission.

18 (4) The ~~secretary~~ director shall be custodian of all property
19 held in the name of the commission and shall be the ex officio disbursing
20 agent of all funds available for its use.

21 (5) The ~~secretary~~ director shall furnish bond to the state, with
22 a corporate surety thereon, in the penal sum of twenty-five thousand dollars
23 (\$25,000), conditioned that he or she will faithfully perform his or her
24 duties of office and properly account for all funds received and disbursed by
25 him or her as ~~secretary~~ director.

26 (6) Within such limitations as may be provided by appropriations
27 therefor, the ~~secretary~~ director may employ such assistants and other
28 personnel as are, in his or her opinion, necessary to properly administer the
29 provisions of this chapter.

30
31 SECTION 3431. Arkansas Code § 23-111-105(a), concerning racing passes,
32 is amended to read as follows:

33 (a) The ~~Director~~ Secretary of the Department of Finance and
34 Administration shall set a maximum number of racing passes to be printed and
35 issued annually, and it shall not be fewer than the number printed in 1990.

36

1 SECTION 3432. Arkansas Code § 23-111-509(c)(2)(C)(i), concerning the
2 disposition of wagering money, is amended to read as follows:

3 (C)(i) The commission shall seek the assistance of the
4 Department of Finance and Administration to audit and verify receipts and
5 expenditures of the franchise holder in determining compliance with this
6 section. The franchise holder must deliver to the department any documents
7 requested to check and verify compliance with this section within thirty (30)
8 days of receiving a written request for the documents. If the department does
9 not receive the requested documents within the time provided, the ~~Director~~
10 Secretary of the Department of Finance and Administration shall notify the
11 commission, which shall issue an order to show cause why such documents have
12 not been provided.

13
14 SECTION 3433. Arkansas Code § 23-113-103(4), concerning the definition
15 of "director" under the Local Option Horse Racing and Greyhound Racing
16 Electronic Games of Skill Act, is repealed.

17 ~~(4) "Director" means the Director of the Department of Finance~~
18 ~~and Administration;~~

19
20 SECTION 3434. Arkansas Code § 23-113-501(a)(1), concerning privilege
21 fees to be paid to the Director of the Department of Finance and
22 Administration, is amended to read as follows:

23 (1) An amount equal to eighteen percent (18%) of the net
24 wagering revenues from electronic games of skill shall be paid by the
25 franchise holder to the ~~Director~~ Secretary of the Department of Finance and
26 Administration for disposition under § 23-113-604;

27
28 SECTION 3435. Arkansas Code § 23-113-604(a), concerning the
29 disposition of privilege fees and license fees, etc., is amended to read as
30 follows:

31 (a) All privilege fees received by the ~~Director~~ Secretary of the
32 Department of Finance and Administration under this chapter for the benefit
33 of the state shall be deposited into the State Treasury as general revenues.

34
35 SECTION 3436. Arkansas Code § 23-114-102(7), concerning the definition
36 of "director" under the Charitable Bingo and Raffles Enabling Act, is

1 repealed.

2 ~~(7) "Director" means the Director of the Department of Finance~~
3 ~~and Administration;~~

4
5 SECTION 3437. Arkansas Code § 23-114-201 is amended to read as
6 follows:

7 23-114-201. Control and supervision of games of bingo and raffles.

8 (a) The ~~Director~~ Secretary of the Department of Finance and
9 Administration shall administer this chapter under the Arkansas Tax Procedure
10 Act, § 26-18-101 et seq.

11 (b) The ~~director~~ secretary has authority over all games of bingo and
12 raffles conducted in this state so that games of bingo and raffles are fairly
13 conducted and the proceeds derived from games of bingo and raffles are used
14 only for an authorized purpose.

15
16 SECTION 3438. Arkansas Code § 23-114-202(a), concerning the approval
17 of bingo faces and raffle tickets, is amended to read as follows:

18 (a) The ~~Director~~ Secretary of the Department of Finance and
19 Administration by rule shall provide for the form of bingo faces and raffle
20 tickets used in the State of Arkansas.

21
22 SECTION 3439. Arkansas Code § 23-114-203 is amended to read as
23 follows:

24 23-114-203. Rulemaking authority.

25 The ~~Director~~ Secretary of the Department of Finance and Administration
26 may adopt rules to aid in the enforcement and administration of this chapter.

27
28 SECTION 3440. Arkansas Code § 23-114-303(c)(2), concerning a license
29 application and authorized organizations, is amended to read as follows:

30 (2)(A) In order to determine a responsible person's suitability
31 to organize, conduct, and administer raffles and bingo sessions, the ~~Director~~
32 Secretary of the Department of Finance and Administration may require that
33 the responsible person be fingerprinted and the fingerprints forwarded for a
34 criminal background check through the ~~Department~~ Division of Arkansas State
35 Police.

36 (B) After the completion of the criminal background check

1 through the ~~Department~~ Division of Arkansas State Police, the fingerprints
2 shall be forwarded by the ~~Department~~ Division of Arkansas State Police to the
3 Federal Bureau of Investigation for a national criminal history record check;
4 and

5
6 SECTION 3441. The introductory language of Arkansas Code § 23-114-
7 303(c)(3), concerning a license application and authorized organizations, is
8 amended to read as follows:

9 (3) The responsible person shall sign a release that allows the
10 ~~Department~~ Division of Arkansas State Police to release:

11
12 SECTION 3442. Arkansas Code § 23-114-304(c)(2), concerning
13 distributors' and manufacturers' license applications, is amended to read as
14 follows:

15 (2)(A) In order to determine the person's or persons'
16 suitability to be involved in the sale of bingo equipment, the ~~Director~~
17 Secretary of the Department of Finance and Administration may require that
18 the person or persons be fingerprinted and the fingerprints forwarded for a
19 criminal background check through the ~~Department~~ Division of Arkansas State
20 Police.

21 (B) After the completion of the criminal background check
22 through the ~~Department~~ Division of Arkansas State Police, the fingerprints
23 shall be forwarded by the ~~Department~~ Division of Arkansas State Police to the
24 Federal Bureau of Investigation for a national criminal history record check;
25 and

26
27 SECTION 3443. The introductory language of Arkansas Code § 23-114-
28 304(c)(3), concerning distributors' and manufacturers' license applications,
29 is amended to read as follows:

30 (3) The person or persons responsible for an applicant's sales
31 of bingo equipment shall sign a release that allows the ~~Department~~ Division
32 of Arkansas State Police to release the following:

33
34 SECTION 3444. Arkansas Code § 23-114-405(a)(1), concerning raffle and
35 bingo records, is amended to read as follows:

36 (a)(1) A licensed authorized organization shall provide to the

1 ~~Director~~ Secretary of the Department of Finance and Administration at the
2 time of application for license the address of its primary business office.

3
4 SECTION 3445. Arkansas Code § 23-114-602(b) and (c), concerning the
5 payment and reporting of taxes, are amended to read as follows:

6 (b) The report shall be filed under oath on forms prescribed by the
7 ~~Director~~ Secretary of the Department of Finance and Administration.

8 (c) The ~~director~~ secretary shall adopt any rules necessary for the
9 proper reporting and payment of the tax.

10
11 SECTION 3446. Arkansas Code § 23-114-603(a)(2), concerning information
12 required on excise tax reports, is amended to read as follows:

13 (2) Any other information that the ~~Director~~ Secretary of the
14 Department of Finance and Administration determines is necessary to properly
15 administer the excise tax levied by this subchapter.

16
17 SECTION 3447. Arkansas Code § 23-114-704(a), concerning the filing of
18 injunctions by the Department of Finance and Administration, is amended to
19 read as follows:

20 (a) If the Department of Finance and Administration has reason to
21 believe that this chapter has been violated, the ~~Director~~ Secretary of the
22 Department of Finance and Administration may petition a court for injunctive
23 relief to restrain the violation.

24
25 SECTION 3448. Arkansas Code § 23-115-204(d)(1), concerning the Lottery
26 Retailer Advisory Board, is amended to read as follows:

27 (1) A member of the immediate family of the ~~Director~~ Secretary
28 of the Department of Finance and Administration;

29
30 SECTION 3449. Arkansas Code § 23-115-206(a)(8)(D)(ix)(a) and (b),
31 concerning internal controls and an annual audit regarding the Office of the
32 Arkansas Lottery, are amended to read as follows:

33 (a) Demographic reports from the ~~Department~~
34 Division of Higher Education for each full semester during the fiscal year on
35 accessibility to scholarships, award amounts for each approved institution of
36 higher education; and

1 (b) The ~~Department~~ Division of Higher
2 Education's report to the Legislative Council required by § 6-85-219;

3
4 SECTION 3450. Arkansas Code § 23-115-206(b)(3), concerning internal
5 controls and annual audits, is amended to read as follows:

6 (3)(A) If the office, the General Assembly, the Legislative
7 Council, or the Legislative Joint Auditing Committee requests additional
8 audits or performance reviews of the fiscal affairs or operations of the
9 office to be conducted by a private certified public accountant or other
10 consultant, the ~~Director~~ Secretary of the Department of Finance and
11 Administration shall select and contract with appropriate certified public
12 accountants or consultants to provide the services.

13 (B) The ~~Director~~ Secretary of the Department of Finance
14 and Administration shall contract for the services which shall be paid
15 directly to the contractor by the office.

16 (C) A copy of any report or management correspondence
17 prepared by the certified public accountants or consultants shall be
18 forwarded to Arkansas Legislative Audit, the ~~Director~~ Secretary of the
19 Department of Finance and Administration, and the Legislative Council.

20
21 SECTION 3451. Arkansas Code § 23-115-212(a), concerning the duties and
22 responsibilities of an internal auditor, is amended to read as follows:

23 (a) The internal auditor employed by the Office of the Arkansas
24 Lottery shall report directly to the ~~Director~~ Secretary of the Department of
25 Finance and Administration.

26
27 SECTION 3452. The introductory language of Arkansas Code § 23-115-
28 212(b), concerning the duties and responsibilities of an internal auditor, is
29 amended to read as follows:

30 (b) The ~~director~~ secretary shall determine the duties and
31 responsibilities of the internal auditor that:

32
33 SECTION 3453. Arkansas Code § 23-115-212(b)(2)(A), concerning the
34 duties and responsibilities of an internal auditor, is amended to read as
35 follows:

36 (A) Preparing a formal written three-year audit plan and

1 presenting it to the ~~director~~ secretary for the ~~director's~~ secretary's
2 approval;

3
4 SECTION 3454. Arkansas Code § 23-115-212(b)(2)(C), concerning the
5 duties and responsibilities of an internal auditor, is amended to read as
6 follows:

7 (C) Advising the ~~director~~ secretary of inconsistencies
8 within or improvements needed to the internal controls, operating procedures,
9 or accounting procedures of the office or the lotteries.

10
11 SECTION 3455. Arkansas Code § 23-115-212(c)(1)(A), concerning the
12 duties and responsibilities of an internal auditor, is amended to read as
13 follows:

14 (A) Advise the Legislative Council concerning current
15 issues and problems reported to the ~~director~~ secretary under subsection (b)
16 of this section; and

17
18 SECTION 3456. Arkansas Code § 23-115-501(e)(1)(A) and (B), concerning
19 vendors, requirements when submitting a bid, proposals, offers, and major
20 procurement contracts, are amended to read as follows:

21 (A) The Director of the Office of the Arkansas Lottery, an
22 employee of the Office of the Arkansas Lottery, the ~~Director~~ Secretary of the
23 Department of Finance and Administration, the Deputy Director of the
24 Department of Finance and Administration, or a member of the Legislative
25 Council; or

26 (B) A member of the immediate family of the Director of
27 the Office of the Arkansas Lottery, an employee of the office, the ~~Director~~
28 Secretary of the Department of Finance and Administration, the Deputy
29 Director of the Department of Finance and Administration, or a member of the
30 Legislative Council.

31
32 SECTION 3457. Arkansas Code § 23-115-501(f), concerning vendors,
33 requirements when submitting a bid, proposals, offers, and major procurement
34 contracts, is amended to read as follows:

35 (f)(1) A public official, the ~~Director~~ Secretary of the Department of
36 Finance and Administration, and the Deputy Director of the Department of

1 Finance and Administration shall not knowingly own a financial interest in a
2 vendor.

3 (2)(A) If a public official, the ~~Director~~ Secretary of the
4 Department of Finance and Administration, or the Deputy Director of the
5 Department of Finance and Administration becomes aware that he or she owns a
6 financial interest in a vendor, the public official, the ~~Director~~ Secretary
7 of the Department of Finance and Administration, or the Deputy Director of
8 the Department of Finance and Administration shall divest the financial
9 interest as soon as possible.

10 (B) A public official, the ~~Director~~ Secretary of the
11 Department of Finance and Administration, or the Deputy Director of the
12 Department of Finance and Administration shall not divest the financial
13 interest to a member of his or her immediate family.

14

15 SECTION 3458. Arkansas Code § 23-115-601(e)(1), concerning retailers,
16 is amended to read as follows:

17 (e)(1) A person seeking to be a retailer shall apply to the
18 Identification Bureau of the ~~Department~~ Division of Arkansas State Police for
19 a state and federal criminal background check, to be conducted by the
20 Identification Bureau of the ~~Department~~ Division of Arkansas State Police and
21 the Federal Bureau of Investigation.

22

23 SECTION 3459. Arkansas Code § 23-115-601(e)(5), concerning retailers,
24 is amended to read as follows:

25 (5) Upon completion of the state and federal criminal background
26 check, the Identification Bureau of the ~~Department~~ Division of Arkansas State
27 Police shall forward to the office all releasable information obtained
28 concerning the applicant.

29

30 SECTION 3460. Arkansas Code § 23-115-601(j)(1)(A) and (B), concerning
31 retailers, are amended to read as follows:

32 (A) The Director of the Office of the Arkansas Lottery, an
33 employee of the Office of the Arkansas Lottery, the ~~Director~~ Secretary of the
34 Department of Finance and Administration, or the Deputy Director of the
35 Department of Finance and Administration; or

36 (B) A member of the immediate family of the Director of

1 the Office of the Arkansas Lottery, an employee of the Office of the Arkansas
2 Lottery, the ~~Director~~ Secretary of the Department of Finance and
3 Administration, or the Deputy Director of the Department of Finance and
4 Administration.

5

6 SECTION 3461. Arkansas Code § 23-115-610(c), concerning business
7 closure procedures, is amended to read as follows:

8 (c) The ~~Director~~ Secretary of the Department of Finance and
9 Administration may request the assistance of the ~~Department~~ Division of
10 Arkansas State Police or any state or local law enforcement official to post
11 the notice or to secure the business as authorized in this section.

12

13 SECTION 3462. Arkansas Code § 23-115-801(b)(1)(B)(i)(b)(1), concerning
14 lottery proceeds, is amended to read as follows:

15 (1) Transfers under subdivision (c)(2)
16 of this section the funds requested by the ~~Department~~ Division of Higher
17 Education; and

18

19 SECTION 3463. Arkansas Code § 23-115-801(b)(1)(B)(iii), concerning
20 lottery proceeds, is amended to read as follows:

21 (iii) Annually, the office shall transfer to the
22 ~~Department~~ Division of Higher Education the funds from the previous academic
23 year, if any, that were transferred by the office into the trust account for
24 the Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq.,
25 under subdivision (b)(1)(B)(i) of this section for distribution of Arkansas
26 Workforce Challenge Scholarships.

27

28 SECTION 3464. Arkansas Code § 23-115-801(c) and (d), concerning
29 lottery proceeds, are amended to read as follows:

30 (c)(1) The Director of the ~~Department~~ Division of Higher Education
31 shall certify to the office the amount of net proceeds from the lottery
32 needed to fund the scholarships awarded to recipients under § 6-85-201 et
33 seq. for each semester of an academic year.

34

35 (2)(A) The office shall transfer the funds requested by the
36 Director of the ~~Department~~ Division of Higher Education under subdivision
(c)(1) of this section into one (1) or more trust accounts at one (1) or more

1 financial institutions meeting the requirements of subdivision (b)(2) of this
2 section maintained by the ~~Department~~ Division of Higher Education.

3 (B) The Director of the ~~Department~~ Division of Higher
4 Education shall disburse trust account funds only in the name of the
5 recipient:

6 (i) To an approved institution of higher education;
7 or

8 (ii) If a recipient transfers to another approved
9 institution of higher education, to the approved institution of higher
10 education where the recipient transferred.

11 (3) By August 1 of each year, the Director of the ~~Department~~
12 Division of Higher Education shall provide to the ~~Director~~ Secretary of the
13 Department of Finance and Administration and to the Legislative Council for
14 the academic year just ended an accounting of all trust accounts maintained
15 by the ~~Department~~ Division of Higher Education, including without limitation:

16 (A) Total deposits to all trust accounts;

17 (B) Total disbursements from the trust accounts; and

18 (C) The balance remaining in the trust accounts.

19 (d)(1) The General Assembly finds that:

20 (A) The administration of scholarships with proceeds from
21 the lottery are expenses of the office; and

22 (B) Because the ~~Department~~ Division of Higher Education
23 has the expertise and experienced staff needed to efficiently and
24 appropriately administer the scholarships, the office shall use the services
25 of the ~~Department~~ Division of Higher Education to administer scholarships
26 funded with net proceeds from the lottery.

27 (2)(A) Annually by April 1, the ~~Department~~ Division of Higher
28 Education shall provide to the office and to the Legislative Council the
29 ~~Department~~ Division of Higher Education's budget for the administrative
30 expenditures allowed under this subsection.

31 (B) Annually by October 31, the ~~Department~~ Division of
32 Higher Education shall provide an invoice to the office for reimbursement of
33 the administrative expenditures allowed under this subsection, including
34 without limitation:

35 (i) For each employee the:

36 (a) Type of position, whether full-time, part-

1 time, permanent, or temporary; and

2 (b) Salary paid;

3 (ii) A description of other expenditures requested
4 in the invoice; and

5 (iii) An explanation of the increase, if any, of
6 actual expenditures over the budgeted expenditures.

7 (C) Only direct expenditures of the ~~department~~ division to
8 administer scholarship funding with net proceeds from the lottery may be
9 invoiced to the office under subdivision (d)(2)(B) of this section.

10 (3)(A) Annually by November 1, the office shall file a copy of
11 the invoice with the Legislative Council for its review.

12 (B) The Legislative Council shall review the invoice and
13 forward its comments, if any, to the office.

14 (C) The office shall reimburse the ~~Department~~ Division of
15 Higher Education for the costs of administering the scholarship awards funded
16 with net proceeds from the lottery after the Legislative Council's review
17 under this subsection.

18
19 SECTION 3465. Arkansas Code § 23-116-104(b)(1), concerning tax on paid
20 fantasy sports games, is amended to read as follows:

21 (1) Reported and remitted to the Department of Finance and
22 Administration on a quarterly basis through the Arkansas Taxpayer Access
23 Point or its successor on forms prescribed by the ~~Director~~ Secretary of the
24 Department of Finance and Administration; and

25
26 SECTION 3466. Arkansas Code § 23-116-104(c), concerning tax on paid
27 fantasy sports games, is amended to read as follows:

28 (c) The ~~director~~ secretary shall promulgate rules to administer the
29 tax levied under this section.

30
31 SECTION 3467. Arkansas Code § 24-4-201(a)(1), concerning the creation
32 and system accounts of the Arkansas Public Employees' Retirement System Fund,
33 is amended to read as follows:

34 (a)(1) There is established on the books of the Treasurer of State,
35 the Auditor of State, and the ~~Director~~ Secretary of the Department of Finance
36 and Administration a fund to be known as the "Arkansas Public Employees'

1 Retirement System Fund”.

2

3 SECTION 3468. Arkansas Code § 24-4-207(a)(3), concerning bonds,
4 payments on vouchers and warrants, and adjustment of erroneous payments, is
5 amended to read as follows:

6 (3) The ~~Director~~ Secretary of the Department of Finance and
7 Administration is authorized and directed to designate such additional
8 personnel within his or her office and to provide for such services as are
9 necessary for the proper operation of the system.

10

11 SECTION 3468. Arkansas Code § 24-4-207(c)(4)(C), concerning bonds,
12 payments on vouchers and warrants, and adjustment of erroneous payments, is
13 amended to read as follows:

14 (C) The ~~Director~~ Secretary of the Department of Finance
15 and Administration shall promptly hear all appeals of annuity determinations
16 or redeterminations and shall conduct such hearings in accordance with
17 procedures set forth by the board.

18

19 SECTION 3470. Arkansas Code § 24-5-104(b)(1)(C), concerning the Board
20 of Trustees of the Arkansas State Highway Employees' Retirement System, is
21 amended to read as follows:

22 (C) The ~~Director~~ Secretary of the Department of Finance
23 and Administration;

24

25 SECTION 3471. Arkansas Code § 24-6-209(a), concerning an employer's
26 contribution, is amended to read as follows:

27 (a) The ~~Department~~ Division of Arkansas State Police, as employer,
28 shall make contributions to the State Police Retirement System of twenty-two
29 percent (22%) of active member payroll.

30

31 SECTION 3472. Arkansas Code § 24-6-209(b)(1), concerning an employer's
32 contribution, is amended to read as follows:

33 (b)(1) At the request of the Executive Secretary of the State Police
34 Retirement System, the ~~Director~~ Secretary of the Department of Finance and
35 Administration shall make annual transfers on each June 30 to the system from
36 the remainder of insurance premium taxes enumerated in § 19-6-301(27) before

1 those taxes are transferred to general revenues enumerated in § 19-6-201(19)
2 the amounts of money necessary to amortize the unfunded liabilities over a
3 period not to exceed thirty (30) years.

4
5 SECTION 3473. Arkansas Code § 24-6-218(a)(1), concerning survivors'
6 benefits upon the death of an officer killed in the line of duty while not a
7 member of the State Police Retirement System, is amended to read as follows:

8 (a)(1) In the event any uniformed employee of the ~~Department~~ Division
9 of Arkansas State Police is killed while in the performance of his or her
10 duties, yet the surviving spouse and surviving children of the uniformed
11 employee of the ~~department~~ division are deprived of receiving benefits as
12 prescribed in § 24-6-217 because the uniformed employee was not a member of
13 the system at the time of his or her death, or had not completed any
14 probationary period of service required by regulations of the Arkansas State
15 Police Commission, or had not obtained sufficient service for benefits, the
16 surviving spouse may make application to the Board of Trustees of the State
17 Police Retirement System.

18
19 SECTION 3474. Arkansas Code § 24-6-218(d), concerning survivors'
20 benefits upon the death of an officer killed in the line of duty while not a
21 member of the system, is amended to read as follows:

22 (d) Upon certification of these facts by the board, the ~~Director~~
23 Secretary of the Department of Finance and Administration shall direct the
24 Treasurer of State to transfer from the ~~Department~~ Division of Arkansas State
25 Police Fund, annually, to the State Police Retirement Fund an amount equal to
26 the funds expended from the State Police Retirement Fund for the payment of
27 survivors' benefits as authorized in this section in order to reimburse the
28 fund therefor.

29
30 SECTION 3475. Arkansas Code § 24-11-102(c), concerning an increase in
31 benefits under the municipal firemen's relief and pension funds, is amended
32 to read as follows:

33 (c) If it is determined by the review board that a local pension plan
34 is not complying with the provisions of law governing benefit increases, the
35 executive director shall certify that noncompliance to the ~~Director~~ Secretary
36 of the Department of Finance and Administration who shall withhold all moneys

1 otherwise due the plan from the state until compliance is achieved.

2

3 SECTION 3476. Arkansas Code § 24-11-202(a), concerning noncompliance
4 with the Arkansas Fire and Police Pension Review Board, is amended to read as
5 follows:

6 (a) If it is determined that a plan is not complying with the
7 provisions of this subchapter, the Executive Director of the Arkansas Fire
8 and Police Pension Review Board shall certify the noncompliance to the
9 ~~Director~~ Secretary of the Department of Finance and Administration, who shall
10 withhold all moneys otherwise due the plan from the state until compliance is
11 achieved.

12

13 SECTION 3477. Arkansas Code § 24-11-203(b)(1)(E), concerning the
14 creation of the Arkansas Fire and Police Pension Review Board, is amended to
15 read as follows:

16 (E) The ~~Director~~ Secretary of the Department of Finance
17 and Administration or the ~~director's~~ secretary's designee.

18

19 SECTION 3478. Arkansas Code § 24-11-215(c), concerning the allocation
20 of insurance premium tax and special provisions, is amended to read as
21 follows:

22 (c) After transfers are made to cover funds distributed under
23 subsection (b) of this section and the portion of those premium taxes set
24 aside for transfer to the State Police Retirement Fund under § 24-6-209(b),
25 the ~~Director~~ Secretary of the Department of Finance and Administration is
26 directed to make annual transfers from the police portion of the revenues to
27 the Policemen's Pension Supplement Program Fund on or before July 25, 1999,
28 and each year thereafter as certified by the Arkansas Fire and Police Pension
29 Review Board on July 1 each year as the amount needed to pay the expenses of
30 and to make payments to the eligible retired police officers and survivors
31 under the Arkansas Policemen's Pension Supplement Program for the coming year
32 of the program.

33

34 SECTION 3479. Arkansas Code § 25-1-104 is amended to read as follows:

35 25-1-104. Access of Department of Finance and Administration to agency
36 records.

1 The Revenue Division of the Department of Finance and Administration,
2 the ~~Department~~ Division of Workforce Services, the University of Arkansas at
3 Little Rock, the University of Arkansas at Fayetteville, the Arkansas
4 Economic Development Commission, and any other state agency, board,
5 commission, department, institution, college, university, or authority shall
6 make data, information, statistics, or other records of information available
7 to the Department of Finance and Administration. Provided, however, that such
8 information and records shall not identify persons, people, conglomerates,
9 corporations, monopolies, or others that would from any published data or
10 data within the possession of the office of the ~~Director~~ Secretary of the
11 Department of Finance and Administration reveal the identity or any
12 information or data of that particular identity that would be in conflict
13 with federal laws.

14
15 SECTION 3480. Arkansas Code § 25-8-101 is amended to read as follows:

16 25-8-101. ~~Creation—~~ Director Secretary – Organization – Personnel.

17 ~~(a) There is created a Department of Finance and Administration.~~

18 ~~(b) The executive head of the Department of Finance and Administration~~
19 ~~shall be the Director of the Department of Finance and Administration. The~~
20 ~~director shall be appointed by the Governor and shall serve at the pleasure~~
21 ~~of the Governor.~~

22 ~~(c)(1)~~ (a)(1) The Department of Finance and Administration shall
23 consist of the divisions which existed as of July 1, 1971, within the State
24 Administration Department and the Department of Revenues and any other
25 divisions which may be created by law and placed under the Department of
26 Finance and Administration, subject to the transfer of a division or
27 department of the Department of Finance and Administration as a state entity
28 under the Transformation and Efficiencies Act of 2019, § 25-43-101 et. seq.

29 (2) There is created a Racing Division and an Alcoholic
30 Beverage Control Division within the Department of Finance and
31 Administration.

32 ~~(d)(b)~~ The ~~Director~~ Secretary of the Department of Finance and
33 Administration, with the advice and consent of the Governor, shall appoint
34 the heads of the respective divisions. The ~~director~~ secretary may appoint an
35 Administrative Assistant for Revenue to serve as the ~~director's~~ secretary's
36 agent. All other personnel of the Department of Finance and Administration

1 shall be employed by and serve at the pleasure of the ~~Director~~ Secretary of
2 the Department of Finance and Administration, provided that nothing in this
3 section shall be so construed as to reduce any right which an employee of the
4 Department of Finance and Administration shall have under any civil service
5 or merit system.

6 ~~(e)~~(c) Each division of the Department of Finance and Administration
7 shall be under the direction, control, and supervision of the ~~director~~
8 secretary of the department. The ~~director~~ secretary may delegate his or her
9 functions, powers, and duties to the various divisions of the Department of
10 Finance and Administration as he or she shall deem desirable and necessary
11 for the effective and efficient operation of the ~~department~~ Department of
12 Finance and Administration.

13 ~~(f)~~(d) For the purposes of the tax, driver's license, and motor
14 vehicle registration and licensing laws, the term "~~director~~ secretary" shall
15 mean the ~~Director~~ Secretary of the Department of Finance and Administration,
16 the Administrative Assistant for Revenue, or his or her authorized agent. The
17 Administrative Assistant for Revenue shall act as the ~~director's~~ secretary's
18 agent and take any and all actions necessary to administer the laws.

19
20 SECTION 3481. Arkansas Code § 25-8-102 is amended to read as follows:

21 25-8-102. Authority of ~~director~~ secretary generally.

22 (a) The ~~Director~~ Secretary of the Department of Finance and
23 Administration, with the approval of the Governor, may adopt reasonable
24 rules, regulations, and procedures, not inconsistent with the law, which he
25 or she deems desirable for the effective administration of the Department of
26 Finance and Administration and any of its divisions.

27 (b) The ~~director~~ secretary shall have authority to install any
28 recordkeeping and other procedures in his or her office and in other offices
29 and departments of the state which he or she shall deem necessary or
30 advisable to carry out his or her functions and duties. However, nothing in
31 this section shall be construed to grant the ~~director~~ secretary any authority
32 to establish recordkeeping or other procedures, or rules and regulations with
33 respect to the elected constitutional officers of the state, the General
34 Assembly and its committees, or other agencies who are exempt from all or a
35 part of the procedures set forth in the Arkansas Procurement Law, § 19-11-201
36 et seq., and the General Accounting and Budgetary Procedures Law, § 19-4-101

1 et seq.

2 (c) The ~~director~~ secretary may from time to time establish within the
3 department any sections or other administrative units which he or she may
4 deem desirable for the effective operation of the department and any division
5 thereof, provided that the duties and functions of the sections or
6 administrative units are within the purpose authorized by law.

7 (d) The ~~director~~ secretary may appoint a designee to appear on behalf
8 of the ~~director~~ secretary at meetings of any board or commission of which the
9 ~~director~~ secretary is a member in his or her capacity as ~~Director~~ Secretary
10 of the Department of Finance and Administration or Chief Fiscal Officer of
11 the State. The designee may vote on behalf of the ~~director~~ secretary.

12

13 SECTION 3482. Arkansas Code § 25-8-104 is amended to read as follows:

14 25-8-104. Director of Division of Budgets and Accounting.

15 The Director of the Division of Budgets and Accounting shall be the
16 Deputy Director of the Department of Finance and Administration. He or she
17 shall have all functions, powers, and duties granted under § 19-1-203 and all
18 other laws pertaining to his or her office and any other functions, powers,
19 and duties which are assigned and delegated to him or her by the ~~Director~~
20 Secretary of the Department of Finance and Administration.

21

22 SECTION 3483. Arkansas Code § 25-8-105(b), concerning federal aid
23 programs, is amended to read as follows:

24 (b) All applications for federal grants submitted by state agencies
25 shall be processed through the department. However, the ~~Director~~ Secretary of
26 the Department of Finance and Administration shall have the discretion to
27 authorize state agencies to file copies of grant applications with the
28 department as a substitute for the processing requirement.

29

30 SECTION 3484. Arkansas Code § 25-8-106(b)(1), concerning the marketing
31 and redistribution of state personal property, is amended to read as follows:

32 (b)(1) There is created within the Office of State Procurement ~~of the~~
33 ~~Department of Finance and Administration~~ a Marketing and Redistribution
34 Section for the purpose of promoting and ensuring effective utilization of
35 surplus state property.

36 (2)(A) All state agencies, boards, commissions, departments, and

1 colleges and universities are required and county, municipal, or other tax-
2 supported institutions are authorized to utilize the services of the
3 Marketing and Redistribution Section, unless specifically exempted in writing
4 by the Director of the Office of State Procurement ~~of the Department of~~
5 ~~Finance and Administration.~~

6 (B)(i) Nothing in this section shall be construed to make
7 it mandatory that county, municipal, or other local government units utilize
8 the services of the Marketing and Redistribution Section.

9 (ii) Nothing in this section shall be construed to
10 make it mandatory that any agency, department, division, office, board,
11 commission, or institution of this state, including state-supported
12 institutions of higher education, utilize the services of the Marketing and
13 Redistribution Section in the sale of surplus computer equipment and
14 electronics to state agency employees for a price not less than ten percent
15 (10%) above depreciated value.

16 (3) The ~~Department of Finance and Administration~~ Department of
17 Transformation and Shared Services shall maintain adequate and accurate
18 records of the costs for operating the Marketing and Redistribution Section
19 and is authorized to establish fair and reasonable charges for the services
20 of the section. The charges for services shall be deposited in the State
21 Treasury as nonrevenue receipts, there to be credited to the Property Sales
22 Holding Fund for the operation, maintenance, and improvement of the Marketing
23 and Redistribution Section.

24
25 SECTION 3485. The introductory language of Arkansas Code § 25-8-
26 106(e), concerning the marketing and redistribution of state personal
27 property, is amended to read as follows:

28 (e) Proceeds from the sale, transfer, or rental of property by the
29 Director of the Office of State Procurement ~~of the Department of Finance and~~
30 ~~Administration~~ shall be accounted for as follows:

31
32 SECTION 3486. Arkansas Code § 25-8-106(f), concerning the marketing
33 and redistribution of state personal property, is amended to read as follows:

34 (f) The ~~Director~~ Secretary of the Department of ~~Finance and~~
35 ~~Administration~~ Transformation and Shared Services is authorized to promulgate
36 reasonable rules and regulations, not inconsistent with law, for compliance

1 with the provisions of this section, the Arkansas Procurement Law, § 19-11-
2 201 et seq., the General Accounting and Budgetary Procedures Law, § 19-4-101
3 et seq., and the sale of surplus commodities to not-for-profit organizations
4 under § 22-1-101.

5
6 SECTION 3487. Arkansas Code § 25-8-108 is amended to read as follows:
7 25-8-108. Contract labor.

8 The ~~Director~~ Secretary of the Department of Finance and Administration
9 may authorize use of contract labor in the Revenue Division of the Department
10 of Finance and Administration from January until July of a given year without
11 regard to any limitation of duration or hours.

12
13 SECTION 3488. Arkansas Code § 25-8-109 is amended to read as follows:
14 25-8-109. Loans to marketing and redistribution.

15 In the event the moneys available in the Property Sales Holding Fund
16 are not adequate during any month of each year of the fiscal biennium to meet
17 the payroll commitments of the Marketing and Redistribution Section of the
18 Office of State Procurement ~~of the Department of Finance and Administration~~
19 for the regular salaries and personal services matching appropriation, the
20 Chief Fiscal Officer of the State is hereby authorized to make loans, from
21 time to time as needed, from the Budget Stabilization Trust Fund to the
22 Property Sales Holding Fund to provide the moneys required to meet the
23 payroll and personal services matching appropriation requirements for any
24 such month. Provided that, if at the end of each fiscal year the Property
25 Sales Holding Fund did not receive sufficient income to repay the entire
26 amount of any such moneys borrowed from the Budget Stabilization Trust Fund
27 for the purposes as authorized herein, the Chief Fiscal Officer of the State
28 is hereby authorized to transfer from the State Central Services Fund such
29 amount as is necessary to reimburse the Budget Stabilization Trust Fund in
30 behalf of loans made to the Property Sales Holding Fund to reimburse the
31 Budget Stabilization Trust Fund for the amount of any such loan remaining
32 unpaid at the end of each fiscal year.

33
34 SECTION 3489. Arkansas Code § 25-8-110 is amended to read as follows:

35 25-8-110. ~~Additional duties~~ Duties of Department of Transformation and
36 Shared Services and Department of Finance and Administration.

1 (a) The Department of ~~Finance and Administration~~ Transformation and
2 Shared Services shall:

3 (1) Develop retention schedules for control, preservation,
4 protection, and disposition of the electronic records of state agencies under
5 § 25-18-601 et seq.;

6 (2) Direct the development of policies and procedures that state
7 agencies shall follow in developing information technology plans and
8 technology-related budgets and technology project justification;

9 (3) Review procurements to ensure conformity with information
10 policies and standards and state-level plans and implementation strategies;

11 (4) Advise state agencies on information technology contracts
12 and agreements; and

13 (5) Develop and promulgate rules and guidelines governing the
14 retention and management of public records commonly found in most state
15 agencies under § 25-18-601 et seq., ~~and~~

16 ~~(6)(A)(b)(1)~~ With assistance from the ~~Department~~ Division of
17 Workforce Services, the Department of Finance and Administration shall
18 establish and maintain a web page to:

19 ~~(i)(A)~~ Provide a menu of links to employer-related
20 state web applications for required reporting, tax payments, and other data
21 submissions;

22 ~~(ii)(B)~~ Allow an employer to select a link based
23 upon a desired type of function or application and be redirected to the
24 appropriate agency web application; and

25 ~~(iii)(C)~~ Provide information about tax submissions,
26 employment reports, and child support submissions on the respective agency
27 sites, including without limitation due dates, payment options, and agency
28 contact information.

29 ~~(B)(2)~~ The initial scope of the web page shall include
30 links to:

31 ~~(i)(A)~~ Online taxpayer services administered by the
32 Department of Finance and Administration through the Arkansas Taxpayer Access
33 Point web page;

34 ~~(ii)(B)~~ Unemployment and new hire submissions
35 administered by the ~~Department~~ Division of Workforce Services; and

36 ~~(iii)(C)~~ Information concerning employer reporting

1 and payment functions provided by the Office of Child Support Enforcement of
2 the Revenue Division of the Department of Finance and Administration.

3 ~~(C)~~(3) The web page shall be designed with sufficient
4 flexibility to allow additional links to other state agencies to be added as
5 appropriate.

6
7 SECTION 3490. Arkansas Code § 25-28-101 is amended to read as follows:
8 25-28-101. Creation – Director – Organization – Personnel.

9 (a) There is created the Assessment Coordination ~~Department~~ Division.

10 (b)(1) The executive head of the ~~department~~ Assessment Coordination
11 Division shall be the Director of the Assessment Coordination ~~Department~~
12 Division.

13 (2) The director shall be appointed by the Governor, subject to
14 confirmation by the Senate, and shall serve at the pleasure of the Governor.

15 (3) The director shall report to the Secretary of the Department
16 of Finance and Administration.

17 (c) The ~~department~~ Assessment Coordination Division shall consist of
18 the divisions which may be necessary to fulfill its purposes and which may be
19 created by law and placed under the ~~department~~ Assessment Coordination
20 Division.

21 (d)(1) The director, in consultation with the Secretary of the
22 Department of Finance and Administration, shall appoint the heads of the
23 respective divisions.

24 (2) All personnel of the ~~department~~ Assessment Coordination
25 Division shall be employed by the Department of Finance and Administration
26 and shall serve at the pleasure of the ~~director~~ secretary.

27 (3) However, nothing in this section shall be so construed as to
28 reduce any right which an employee of the ~~department~~ Assessment Coordination
29 Division shall have under any civil service or merit system.

30 (e)(1) Each division of the ~~department~~ Assessment Coordination
31 Division shall be under the direction, control, and supervision of the
32 director.

33 (2) The director may delegate his or her functions, powers, and
34 duties to the various divisions of the Assessment Coordination Division as he
35 or she shall deem desirable and necessary for the effective and efficient
36 operation of the ~~department~~ division.

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SECTION 3491. Arkansas Code § 25-28-102 is repealed.

~~25-28-102. Transfer.~~

~~(a) The Assessment Coordination Division of the Arkansas Public Service Commission is transferred by a type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department.~~

~~(b) For purposes of this subchapter, the Assessment Coordination Department shall be considered a principal department established by Acts 1971, No. 38.~~

SECTION 3492. Arkansas Code § 25-28-103(c)-(e), concerning the authority of the Arkansas Public Service Commission over the Assessment Coordination Division, are repealed.

~~(c) Any and all other statutory authority, powers, duties, functions, records, property, and funds administered or provided by other support divisions within the commission or by the commission for the Assessment Coordination Division shall be transferred by a type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department.~~

~~(d) Any and all other statutory authority, powers, duties, and functions of the commission regarding assessment and equalization of properties and the administration of the tax laws of this state not specifically retained by the commission or the Tax Division of the Arkansas Public Service Commission in this chapter shall be transferred by a type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department.~~

~~(e) Any and all other prescribed powers, duties, and functions of the commission regarding assessment and equalization of properties and the administration of the tax laws of this state not specifically retained by the commission or the Tax Division of the Arkansas Public Service Commission in this chapter, including rulemaking and regulation; promulgation of rules, rates, regulation and standards; and the rendering of findings, orders, and adjudications are transferred by a type 2 transfer as provided in § 25-2-105 to the Director of the Assessment Coordination Department.~~

SECTION 3493. Arkansas Code § 25-28-104 is amended to read as follows:

25-28-104. Administrative Procedure Act.

The Assessment Coordination ~~Department~~ Division shall be subject to the

1 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

2

3 SECTION 3494. Arkansas Code § 25-28-107 is amended to read as follows:

4 25-28-107. Requirements of Director of the Assessment Coordination

5 ~~Department~~ Division.

6 ~~From and after July 1, 2000, the~~ The Director of the Assessment

7 Coordination ~~Department~~ Division shall meet the qualifications required for

8 certification or licensure as a Level 4 Appraiser in Arkansas, provided that

9 the formal course work was or is satisfactorily completed in another state.

10 At the time of appointing the director, the Governor shall include in the

11 appointment document a statement that the appointee meets the qualifications

12 prescribed by law.

13

14 SECTION 3495. Arkansas Code § 25-28-108 is amended to read as follows:

15 25-28-108. Specifications for computer-assisted mass appraisal

16 software.

17 (a) By July 1, 2005, the Assessment Coordination ~~Department~~ Division

18 shall adopt and implement by rules final specifications for computer-assisted

19 mass appraisal software.

20 (b)(1) The rules may provide a procedure by which the ~~department~~

21 division may directly compensate computer-assisted mass appraisal software

22 providers who are in compliance with requirements set forth in the final

23 specifications for computer-assisted mass appraisal software.

24 (2) The ~~department~~ division shall require computer-assisted mass

25 appraisal software providers to comply with requirements set forth in the

26 final specifications for computer-assisted mass appraisal software.

27

28 SECTION 3496. Arkansas Code § 25-16-205(b), concerning the transition

29 of funds, is amended to read as follows:

30 (b) The ~~Director~~ Secretary of the Department of Finance and

31 Administration shall issue limitations and guidelines on the expenditure of

32 transition funds and make those limitations and guidelines a part of any

33 appropriation.

34

35 SECTION 3497. Arkansas Code § 25-16-511(c)(1) and (2), concerning

36 recordkeeping requirements, are amended to read as follows:

1 (c)(1) The Auditor of State is authorized and directed to keep a
2 register in his or her office of all checks which have been drawn upon state
3 agency bank funds and approved for payment by the ~~Director~~ Secretary of the
4 Department of Finance and Administration.

5 (2) The ~~director~~ secretary is directed to transmit to the
6 Auditor of State all documents and information necessary to prepare this
7 register.

8
9 SECTION 3498. Arkansas Code § 25-18-214(b), concerning clerks and
10 personal liability, is amended to read as follows:

11 (b) The volume shall not be loaned or removed except that the clerk,
12 upon approval of the ~~Director~~ Secretary of the Department of Finance and
13 Administration, may remove or otherwise dispose of bound volumes if the
14 official reports are available in electronic or other readily accessible
15 medium in each county in the State of Arkansas for the general use of the
16 courts, county officials, and attorneys.

17
18 SECTION 3499. Arkansas Code § 25-18-224(a)(2), concerning the
19 distribution of quasijudicial opinions and orders, is amended to read as
20 follows:

21 (2) Such quasijudicial board, commission, or agency may make a
22 charge for providing such opinions and orders, but the charge shall be
23 limited to the actual cost of reproduction and shall be approved by the
24 ~~Director~~ Secretary of the Department of Finance and Administration.

25
26 SECTION 3500. Arkansas Code § 25-18-402 is amended to read as follows:
27 25-18-402. Exemptions.

28 This subchapter does not prohibit the ~~Director~~ Secretary of the
29 Department of Finance and Administration and his or her authorized agents
30 from entering into agreements with taxpayers pursuant to § 26-18-705 which
31 shall not be subject to public disclosure if the subject matter of the
32 agreement is protected from public disclosure by the Freedom of Information
33 Act of 1967, § 25-19-101 et seq., or § 26-18-303, or other state law.

34
35 SECTION 3501. Arkansas Code § 25-19-105(b)(3), concerning the
36 examination and copying of public records, is amended to read as follows:

1 (3) The site files and records maintained by the Arkansas
2 Historic Preservation Program of the ~~Department~~ Division of Arkansas Heritage
3 and the Arkansas Archeological Survey;
4

5 SECTION 3502. Arkansas Code § 25-30-205 is amended to read as follows:
6 25-30-205. Office facilities.

7 The Building Authority Division ~~of the Department of Finance and~~
8 ~~Administration~~ shall ensure that all offices of Arkansas Rehabilitation
9 Services of the ~~Department of Career Education~~ are exemplary models of
10 accessibility and conform to the Americans with Disabilities Act, 42 U.S.C. §
11 12101 et seq., accessibility guidelines.
12

13 SECTION 3503. Arkansas Code § 26-5-102(a), concerning an election to
14 report tax on the basis of volume percentage, is amended to read as follows:

15 (a) Every taxpayer required to file an income tax return pursuant to
16 provisions of the Income Tax Act of 1929, § 26-51-101 et seq., whose only
17 activity within this state consists of sales and does not include owning or
18 renting real estate or tangible personal property in this state and whose
19 dollar volume of gross sales made during the last year within the State of
20 Arkansas or its subdivisions, as the case may be, is not in excess of one
21 hundred thousand dollars (\$100,000) may elect to report any tax due the State
22 of Arkansas on the basis of a percentage of this volume, and the ~~Director~~
23 Secretary of the Department of Finance and Administration is authorized to
24 adopt rates which are calculated to produce a tax thereon which reasonably
25 approximates the tax otherwise due under the laws of this state from these
26 taxpayers.
27

28 SECTION 3504. Arkansas Code § 26-5-103 is amended to read as follows:
29 26-5-103. State representative.

30 The ~~Director~~ Secretary of the Department of Finance and Administration
31 of the State of Arkansas shall represent this state on the Multistate Tax
32 Commission. The ~~director~~ secretary may, with the approval of the Governor,
33 designate an alternate to serve on the commission in his or her place if
34 there is on file with the commission written notification of the designation
35 and the identity of the alternate.
36

1 SECTION 3505. Arkansas Code § 26-5-106 is amended to read as follows:
2 26-5-106. Legal counsel.

3 The chief attorney of the Revenue Division of the Department of Finance
4 and Administration is designated as counsel to represent this state at
5 meetings of the Multistate Tax Commission. However, the ~~Director~~ Secretary of
6 the Department of Finance and Administration may request the Attorney General
7 of this state to attend meetings of the commission or to designate one (1) of
8 his or her assistant attorneys general to attend commission meetings.

9

10 SECTION 3506. Arkansas Code § 26-5-107 is amended to read as follows:
11 26-5-107. Interstate audit procedures.

12 The provisions of Article VIII of the Multistate Tax Compact, § 26-5-
13 101, pertaining to interstate audits, shall not be applicable to this state
14 unless the ~~Director~~ Secretary of the Department of Finance and Administration
15 shall, with the approval of the Governor, determine that compliance with the
16 interstate audits procedures would be in the better interest of this state
17 and shall notify the commission of this fact in writing.

18

19 SECTION 3507. Arkansas Code § 26-5-108 is amended to read as follows:
20 26-5-108. Authorized forms.

21 The ~~Director~~ Secretary of the Department of Finance and Administration
22 is authorized to adopt and use forms promulgated by the Multistate Tax
23 Commission pursuant to Article VII of the Multistate Tax Compact, § 26-5-101.

24

25 SECTION 3508. Arkansas Code § 26-17-201 is amended to read as follows:
26 26-17-201. Authority to employ.

27 The ~~Director~~ Secretary of the Department of Finance and Administration
28 shall employ such clerical and legal assistants as he or she may deem
29 necessary for the proper function of the Revenue Division of the Department
30 of Finance and Administration.

31

32 SECTION 3509. Arkansas Code § 26-17-202(a), concerning attorneys
33 employed by the Department of Finance and Administration, is amended to read
34 as follows:

35 (a) The ~~Director~~ Secretary of the Department of Finance and
36 Administration shall employ one (1) or more attorneys for the Revenue

1 Division of the Department of Finance and Administration if he or she deems
2 it necessary and if a saving of money can be had by employing one (1) or more
3 attorneys for the division.

4
5 SECTION 3510. The introductory language of Arkansas Code § 26-17-203,
6 concerning field auditors, is amended to read as follows:

7 It shall be the duty of the ~~Director~~ Secretary of the Department of
8 Finance and Administration in selecting field auditors to be employed by the
9 Revenue Division of the Department of Finance and Administration to require
10 that the applicants meet the following qualifications:

11
12 SECTION 3511. Arkansas Code § 26-17-204 is amended to read as follows:
13 26-17-204. Bond.

14 All deputy commissioners and other employees of the Revenue Division of
15 the Department of Finance and Administration collecting or handling funds
16 shall be placed under bond, premium on which shall be paid by the state upon
17 vouchers issued by the ~~Director~~ Secretary of the Department of Finance and
18 Administration payable out of funds appropriated for that purpose.

19
20 SECTION 3512. Arkansas Code § 26-17-301 is amended to read as follows:
21 26-17-301. Performance required.

22 All of the employees of the Revenue Division of the Department of
23 Finance and Administration shall perform such duties and respond to such
24 directions as the ~~Director~~ Secretary of the Department of Finance and
25 Administration from time to time may enjoin.

26
27 SECTION 3513. Arkansas Code § 26-17-302 is amended to read as follows:
28 26-17-302. Motor vehicle license fees.

29 The ~~Director~~ Secretary of the Department of Finance and Administration
30 shall collect the motor vehicle license fees prescribed by law, and he or she
31 is empowered to make and enforce the necessary rules and regulations to
32 ensure those collections.

33
34 SECTION 3514. Arkansas Code § 26-17-303 is amended to read as follows:
35 26-17-303. Petroleum products.

36 Inspection of petroleum oils and products required to be made by law

1 shall devolve on the ~~Director~~ Secretary of the Department of Finance and
2 Administration who shall collect the fees therefor provided by law.

3
4 SECTION 3515. Arkansas Code § 26-17-304 is amended to read as follows:
5 26-17-304. Suits and other proceedings.

6 (a)(1)(A) The ~~Director~~ Secretary of the Department of Finance and
7 Administration may:

8 (i) Institute and prosecute in his or her name as
9 such all suits and other proceedings necessary for the collection of any
10 taxes or fees collectible by him or her and which have become delinquent; and

11 (ii) Defend all suits and other proceedings
12 concerning taxes, fees, or licenses administered by the ~~director~~ secretary.

13 (B) All suits and proceedings instituted by the ~~director~~
14 secretary or defended by the ~~director~~ secretary that concern taxes, fees, or
15 licenses administered by the Revenue Division of the Department of Finance
16 and Administration may be maintained or defended by an attorney authorized to
17 represent the interests of the division pursuant to § 26-17-202.

18 (2) No deposits of advance cost shall be required of the
19 ~~director~~ secretary in any suit or proceedings, nor shall he or she be
20 required to give bond for cost, indemnity, or stay as a condition to the
21 institution of any suit or proceedings or to the issuance, service, or
22 execution of any process in any suit or proceedings or ancillary to any suit
23 or proceedings or to the appeal from any adverse action.

24 (b)(1) The ~~director~~ secretary shall not be required to advance or pay
25 any court costs to any court clerk for the institution or prosecution of any
26 suit filed in his or her official capacity.

27 (2) No bond shall be required of the ~~director~~ secretary in
28 obtaining restraining orders, injunctions, or any other cases in which a bond
29 is required to be made by a litigant, including supersedeas bond upon appeal.

30
31 SECTION 3516. Arkansas Code § 26-17-402 is amended to read as follows:
32 26-17-402. Authority to enter agreements.

33 The ~~Director~~ Secretary of the Department of Finance and Administration
34 is authorized and empowered, on behalf of the State of Arkansas, to enter
35 into reciprocal pacts and agreements with other states and with the
36 government of the United States for the exchange of information and copies of

1 public and private records, documents, books, and all other matters relative
2 to taxes in which any state may be interested if the state or United States
3 government is a party to such an agreement or pact.

4
5 SECTION 3517. Arkansas Code § 26-17-403 is amended to read as follows:
6 26-17-403. Powers and duties – Definition.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 and his or her agents are authorized and empowered to perform the duties
9 necessary to comply with any pact or agreement with any other state or with
10 the government of the United States as provided:

11 (1) Upon request of any state or government of the United States
12 that is a party to a reciprocal pact or agreement with the State of Arkansas,
13 the ~~director~~ secretary and his or her agents are empowered to furnish such
14 information from public or private records as may be requested by a state;

15 (2) The ~~director~~ secretary and his or her agents in the
16 performance of these duties are empowered to require any person, firm, or
17 corporation to make records available to the ~~director~~ secretary for
18 examination and copying. These records shall be available to the ~~director~~
19 secretary or his or her agents at all reasonable times;

20 (3) The ~~director~~ secretary and his or her agents are empowered
21 to question any person with reference to any matter involving Arkansas taxes
22 or the taxes of any state or government of the United States with which the
23 State of Arkansas may be a party to a pact or agreement for exchange of tax
24 information if the state or government of the United States shall request
25 assistance of the State of Arkansas in obtaining information. The ~~director~~
26 secretary and his or her agents are empowered to take depositions or written
27 sworn statements in the performance of these duties. All persons, firms, or
28 corporations shall, upon demand of the ~~director~~ secretary or his or her
29 agents, supply full and accurate information. That information shall not be
30 used against the person, firm, or corporation supplying the information in
31 any grand jury investigation, indictment, or trial of any person, firm, or
32 corporation involving violation of tax laws, it being the intent of this
33 provision to comply fully with constitutional rights guaranteed to defendants
34 which permit defendants to refrain from giving information or testimony
35 against themselves;

36 (4) The ~~director~~ secretary and his or her agents shall not be

1 empowered to make arrests of persons in Arkansas charged with violating tax
2 laws of other states, unless those persons shall have been charged in the
3 courts of other states with such offenses and notices thereof, together with
4 a certified copy of the charges, shall have been transmitted to the ~~director~~
5 secretary. Any person so arrested shall be permitted to maintain all rights
6 relative to extradition of prisoners;

7 (5)(A) As used in this subdivision (5), "affected person" means
8 a person who may be authorized by the ~~director~~ secretary to access or view
9 federal tax information as a requirement of the person's job duties and who
10 is also:

11 (i) A current employee of the Department of Finance
12 and Administration;

13 (ii) An applicant for employment with the Department
14 of Finance and Administration;

15 (iii) A current employee of a contractor of the
16 Department of Finance and Administration; or

17 (iv) An applicant for employment with a contractor
18 of the Department of Finance and Administration.

19 (B) The ~~director~~ secretary shall establish a criminal
20 background investigation policy for all affected persons that shall include
21 at least the following provisions:

22 (i) An affected person shall authorize the ~~director~~
23 secretary or his or her designee to obtain a state and national criminal
24 background check at the expense of the Department of Finance and
25 Administration;

26 (ii) A criminal background check shall be conducted
27 by the Identification Bureau of the ~~Department~~ Division of Arkansas State
28 Police and the Federal Bureau of Investigation and shall include the taking
29 of fingerprints;

30 (iii) A criminal background check shall satisfy the
31 background investigation standards established by the Internal Revenue
32 Service with regard to access to federal tax information;

33 (iv) A criminal background check performed on an
34 affected person before his or her employment by the ~~director~~ secretary or a
35 contractor of the Department of Finance and Administration shall be conducted
36 before an offer of employment is extended by the ~~director~~ secretary or the

1 contractor of the Department of Finance and Administration;

2 (v) A criminal background check performed on an
3 affected person who is already employed by the ~~director~~ secretary or a
4 contractor of the Department of Finance and Administration shall be conducted
5 at least one (1) time every ten (10) years;

6 (vi) An affected person shall authorize the release
7 of the criminal background check results to the ~~director~~ secretary or his or
8 her designee, and the Identification Bureau of the ~~Department~~ Division of
9 Arkansas State Police shall forward to the ~~director~~ secretary or his or her
10 designee all information obtained as a result of the criminal background
11 check;

12 (vii) Information received from a criminal
13 background check shall be used only for the purpose of making decisions
14 regarding the employment or retention of an affected person in a position in
15 which access to federal tax information may or will be authorized;

16 (viii) Information received by the ~~director~~
17 secretary or his or her designee from the Identification Bureau of the
18 ~~Department~~ Division of Arkansas State Police under this section shall not be
19 released to any party other than the affected person or his or her authorized
20 representative; and

21 (ix)(a) An affected person who is employed by the
22 Department of Finance and Administration or by a contractor of the Department
23 of Finance and Administration shall notify the ~~director~~ secretary or his or
24 her designee of an arrest for a misdemeanor or felony offense.

25 (b) Any information received under subdivision
26 (5)(B)(ix)(a) of this section shall be used only for the purpose of the
27 ~~director~~ secretary making a decision regarding retention of an affected
28 person following the arrest.

29 (c) Failure to provide notice of a subsequent
30 arrest under subdivision (5)(B)(ix)(a) of this section may be grounds for
31 immediate termination of the affected person's employment or other action as
32 the ~~director~~ secretary or his or her designee deems appropriate.

33
34 SECTION 3518. Arkansas Code § 26-17-501 is amended to read as follows:
35 26-17-501. Penalty.

36 (a) If the ~~Director~~ Secretary of the Department of Finance and

1 Administration, or any of his or her deputies or assistants shall collect or
2 receive any tax, revenue, or funds by virtue of his or her official duties or
3 position and shall neglect or fail to turn them over to the Treasurer of
4 State within ten (10) days after the tax, revenue, or funds shall have come
5 into his or her hands or possession, the offender shall be deemed guilty of a
6 felony and be punished by confinement in the state penitentiary for a period
7 of not less than one (1) year and not more than five (5) years.

8 (b) The ~~director~~ secretary shall be liable upon his or her official
9 bond for all funds not turned into the Treasurer of State within ten (10)
10 days after they may come into the hands of the ~~director~~ secretary or any of
11 his or her deputies or assistants.

12
13 SECTION 3519. Arkansas Code § 26-17-502 is amended to read as follows:
14 26-17-502. Duty to remit revenues.

15 The ~~Director~~ Secretary of the Department of Finance and Administration
16 shall turn over to the Treasurer of State all revenues that may come into his
17 or her possession or into the possession of any of his or her deputies,
18 promptly on the day the funds reach his or her office unless received after
19 the office of the Treasurer of State shall have closed for the day, in which
20 event the funds shall be turned over to the Treasurer of State on the first
21 day the Treasurer of State's office is open after the funds are received at
22 the office of the ~~director~~ secretary.

23
24 SECTION 3520. Arkansas Code § 26-17-503 is amended to read as follows:
25 26-17-503. Daily remittance.

26 All collectors and field inspectors shall daily report and remit to the
27 ~~Director~~ Secretary of the Department of Finance and Administration all
28 collections made by them.

29
30 SECTION 3521. Arkansas Code § 26-17-504 is amended to read as follows:
31 26-17-504. Deposits and collections.

32 (a) The ~~Director~~ Secretary of the Department of Finance and
33 Administration shall make daily deposits into the State Treasury of all
34 moneys and checks collected by him or her.

35 (b) The Treasurer of State shall promptly return to the ~~director~~
36 secretary all checks which for any reason were not paid, and it shall be the

1 duty of the ~~director~~ secretary to collect all such checks.

2
3 SECTION 3522. Arkansas Code § 26-18-104(1), concerning the definition
4 of the "assessment" under the Arkansas Tax Procedure Act, is amended to read
5 as follows:

6 (1) "Assessment" means the determination and imposition of the
7 amount of any state tax due and owing, whether made on a return filed by a
8 taxpayer or by the ~~Director~~ Secretary of the Department of Finance and
9 Administration on audit or otherwise;

10
11 SECTION 3523. Arkansas Code § 26-18-104(4), concerning the definition
12 of the "director" under the Arkansas Tax Procedure Act, is amended to read as
13 follows:

14 (4) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the
15 Department of Finance and Administration, State of Arkansas, or the
16 Administrative Assistant for Revenue, or his or her authorized agent;

17
18 SECTION 3524. Arkansas Code § 26-18-211 is amended to read as follows:
19 26-18-211. Failure to correct noncompliance after notification.

20 If a taxpayer has been previously advised that he or she has failed to
21 comply with the provisions of the Arkansas Code or the rules and regulations
22 as promulgated by the ~~Director~~ Secretary of the Department of Finance and
23 Administration by his or her failure to include all of the information
24 required to be shown on the return or the inclusion of incorrect information
25 and he or she continues to disregard those provisions, there shall be
26 assessed a penalty of fifty dollars (\$50.00) per return, unless the failure
27 is due to reasonable cause and not due to willful neglect.

28
29 SECTION 3525. Arkansas Code § 26-18-212 is amended to read as follows:
30 26-18-212. Failure to file a return after notification.

31 If a taxpayer has previously been advised that the taxpayer has not
32 complied with the provisions of §§ 26-51-804(a), 26-51-908(g)(2), 26-52-
33 501(a), 26-53-125(a)(1), or 26-55-229(b), because the taxpayer has not filed
34 a return or notified the ~~Director~~ Secretary of the Department of Finance and
35 Administration that the taxpayer is no longer required to file a return, even
36 though no tax is due, and the taxpayer continues to disregard those

1 provisions, there shall be assessed a penalty of fifty dollars (\$50.00) per
2 return, unless the failure is due to reasonable cause and not due to willful
3 neglect.

4
5 SECTION 3526. Arkansas Code § 26-18-301 is amended to read as follows:

6 26-18-301. Duties of ~~director~~ secretary.

7 (a) The ~~director~~ Secretary of the Department of Finance and
8 Administration shall:

9 (1) Administer and enforce the provisions of every state tax law
10 and when necessary shall promulgate and enforce the rules and regulations;

11 (2) Audit and properly determine and compute the state tax
12 payable by any taxpayer subject to taxation under any state tax law;

13 (3) Assess and collect any state tax; and

14 (4) Administer and enforce all state tax laws.

15 (b) The ~~director~~ secretary shall make available at cost to the general
16 public all rules and regulations promulgated by the ~~director~~ secretary.

17 (c) The ~~director~~ secretary shall provide forms, schedules, and returns
18 for all state tax laws.

19 (d) The ~~director~~ secretary may accept electronic or digital signatures
20 as binding, valid signatures on all reports, forms, or schedules required to
21 be filed by state law.

22
23 SECTION 3527. Arkansas Code § 26-18-302 is amended to read as follows:

24 26-18-302. Preservation of records and copies.

25 (a)(1) The ~~director~~ Secretary of the Department of Finance and
26 Administration shall keep and permanently preserve the original of all
27 official rules, regulations, decisions, and orders and the effective date
28 thereof.

29 (2)(A) A copy of a rule, regulation, decision, or order made by
30 the ~~director~~ secretary in the administration of any state tax law may be
31 authenticated under his or her official seal.

32 (B) An authenticated copy is admissible in any court in
33 this state under § 16-46-101.

34 (C) The ~~director~~ secretary may charge a reasonable fee,
35 not to exceed five dollars (\$5.00), to cover the cost of authentication.

36 (D) Under no circumstances shall the ~~director~~ secretary

1 furnish copies of records which may by law be prohibited from being made
2 public.

3 (b)(1) The ~~director~~ secretary may microfilm any returns, reports,
4 records, or documents received or issued by him or her in the administration
5 of any state tax law.

6 (2) The microfilm records shall be properly indexed for easy
7 retrieval, and one (1) copy shall be placed in a fireproof vault.

8 (3) These records are admissible as evidence in any court in
9 this state under § 16-46-101 and shall have the same weight and force as the
10 original thereof.

11 (c) If the ~~director~~ secretary determines that a method for the
12 reproduction of records is more practicable than the use of microfilm, he or
13 she may use that method.

14

15 SECTION 3528. Arkansas Code § 26-18-303(a), concerning confidential
16 records, privilege, and exceptions, is amended to read as follows:

17 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
18 Administration is the official custodian of all records and files required by
19 any state tax law to be filed with the ~~Director~~ Secretary of the Department
20 of Finance and Administration and is required to take all steps necessary to
21 maintain their confidentiality.

22 (2)(A)(i) Except as otherwise provided by this chapter, the
23 records and files of the ~~Director~~ Secretary of the Department of Finance and
24 Administration concerning the administration of any state tax law are
25 confidential and privileged.

26 (ii) These records and files and any information
27 obtained from these records or files or from any examination or inspection of
28 the premises or property of any taxpayer shall not be divulged or disclosed
29 by the ~~Director~~ Secretary of the Department of Finance and Administration or
30 any other person who may have obtained these records and files.

31 (B) It is the specific intent of this chapter that all tax
32 returns, audit reports, and information pertaining to any tax returns,
33 whether filed by individuals, corporations, partnerships, or fiduciaries,
34 shall not be subject to the provisions of the Freedom of Information Act of
35 1967, § 25-19-101 et seq.

36

1 SECTION 3529. Arkansas Code § 26-18-303(b)(1)-(10), concerning
2 confidential records, privilege, and exceptions, are amended to read as
3 follows:

4 (1) Publication of statistics by the ~~Director~~ Secretary of the
5 Department of Finance and Administration classified to prevent the
6 identification of a particular taxpayer;

7 (2) Use of the information in records filed under any state tax
8 law by the ~~Director~~ Secretary of the Department of Finance and Administration
9 when conducting any audit or investigation of any taxpayer in regard to any
10 state tax;

11 (3)(A) Disclosure of information to the Attorney General of this
12 state, any prosecuting attorney, or any other individual who is empowered by
13 law to prosecute criminal and civil violations of any state tax law when the
14 ~~Director~~ Secretary of the Department of Finance and Administration initiates
15 the investigation.

16 (B) If the prosecution is initiated by the Attorney
17 General or a prosecuting attorney, the ~~Director~~ Secretary of the Department
18 of Finance and Administration shall not disclose any information unless
19 required by subpoena issued by a circuit court.

20 (C) Information may be introduced as evidence by the
21 Attorney General, a prosecuting attorney, or other individual so empowered
22 when the individual is prosecuting any civil or criminal violation of state
23 tax law;

24 (4) Disclosure compelled by any Arkansas circuit court, the
25 Supreme Court, the Court of Appeals, or by any federal court of information
26 involved in any case or controversy before that court;

27 (5) Disclosure by the taxpayer or the taxpayer's authorized
28 agent or by the ~~Director~~ Secretary of the Department of Finance and
29 Administration, at the taxpayer's request, of any information which the
30 ~~Director~~ Secretary of the Department of Finance and Administration has
31 concerning that taxpayer;

32 (6) Disclosure by the ~~Director~~ Secretary of the Department of
33 Finance and Administration, at the ~~Director~~ Secretary of the Department of
34 Finance and Administration's discretion, of information from the records of
35 any state tax law to comparable officials of any other state or the United
36 States who are charged with the administration of a similar tax;

1 (7) Disclosure of motor vehicle titling and registration
2 information, all licenses and permits issued to owners and operators of coin-
3 operated amusement machines pursuant to §§ 26-57-402, 26-57-408 – 26-57-421,
4 and 26-77-303, and tax records, files, and other information relating to
5 sales of aviation fuel at airports and other aviation fuel outlets;

6 (8) Disclosure of information other than income tax information
7 at an administrative hearing held regarding the issuance, cancellation,
8 revocation, or suspension of licenses or permits issued by the ~~Director~~
9 Secretary of the Department of Finance and Administration or any other state
10 agency or department;

11 (9)(A) Disclosure to the Student Loan Authority Division of the
12 Arkansas Development Finance Authority, the ~~Department~~ Division of Higher
13 Education, the Student Loan Guarantee Foundation of Arkansas, or any Arkansas
14 public institution of higher education of the last known address or
15 whereabouts or the last known employer of any person from whom these agencies
16 are charged with collecting a student loan or other student indebtedness.

17 (B) In providing such information, the ~~Director~~ Secretary
18 of the Department of Finance and Administration shall not allow the Student
19 Loan Authority Division of the Arkansas Development Finance Authority, the
20 Student Loan Guarantee Foundation of Arkansas, the ~~Department~~ Division of
21 Higher Education, or any Arkansas public institution of higher education to
22 examine the tax return;

23 (10)(A) In order to ensure proper payment to vendors by all
24 agencies of state government or by county governments or city governments,
25 information about the receipt or nonreceipt of sales tax permits by vendors
26 must be made available by the ~~Director~~ Secretary of the Department of Finance
27 and Administration upon request by these agencies of state government or by
28 county governments or city governments.

29 (B) Therefore, notwithstanding any provision of this
30 chapter or any other law to the contrary, in instances when state agencies,
31 boards, commissions, and other branches of state government or county
32 governments or city governments identify to the ~~Director~~ Secretary of the
33 Department of Finance and Administration the identity of vendors receiving
34 payments and ask the ~~Director~~ Secretary of the Department of Finance and
35 Administration whether these vendors have been issued sales tax permits, the
36 ~~Director~~ Secretary of the Department of Finance and Administration shall

1 answer these inquiries;

2

3 SECTION 3530. Arkansas Code § 26-18-303(16)(B) and (C), concerning
4 confidential records, privilege, and exceptions, are amended to read as
5 follows:

6 (B) This information may be released only following
7 completion of an audit or investigation by the ~~Director~~ Secretary of the
8 Department of Finance and Administration and following a determination by the
9 ~~Director~~ Secretary of the Department of Finance and Administration that there
10 is a strong possibility the taxpayer has failed to properly assess the
11 taxpayer's personal property in the county.

12 (C) In providing this information, the ~~Director~~ Secretary
13 of the Department of Finance and Administration shall not allow the county
14 assessors to examine any tax returns or audit records;

15

16 SECTION 3531. Arkansas Code § 26-18-303(b)(21), concerning
17 confidential records, privilege, and exceptions, is amended to read as
18 follows:

19 (21)(A) To perform audit and compliance duties, disclosure to
20 the ~~Department~~ Division of Workforce Services of withholding tax information
21 reported by companies doing business in Arkansas, including without
22 limitation taxpayer names, taxpayer addresses, tax identification numbers,
23 and tax withholding information.

24 (B) Information received by the ~~Department~~ Division of
25 Workforce Services under this section shall remain confidential and is not
26 subject to disclosure except in accordance with this section;

27

28 SECTION 3532. Arkansas Code § 26-18-303(c), concerning confidential
29 records, privilege, and exceptions, is amended to read as follows:

30 (c) The provisions of this section shall be strictly interpreted and
31 shall not permit any other disclosure of tax information concerning a
32 taxpayer, whether the taxpayer is an individual, a corporation, a
33 partnership, or a fiduciary, that is contained in the records and files of
34 the ~~Director~~ Secretary of the Department of Finance and Administration
35 relating to income tax or any other state tax administered under this
36 chapter.

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SECTION 3533. Arkansas Code § 26-18-303(e) and (f), concerning confidential records, privilege, and exceptions, are amended to read as follows:

(e) Any person who knowingly obtains or attempts to obtain any of the confidential and privileged records and files of the ~~Director~~ Secretary of the Department of Finance and Administration who is not so permitted by law is guilty of a Class A misdemeanor.

(f) The ~~Director~~ Secretary of the Department of Finance and Administration shall report all violations of this section to the appropriate prosecuting attorney in this state.

SECTION 3534. Arkansas Code § 26-18-303(g)(1), concerning confidential records, privilege, and exceptions, is amended to read as follows:

(g)(1) The ~~Director~~ Secretary of the Department of Finance and Administration shall promulgate such regulations as are necessary to establish a reasonable procedure for making requests for and release of information under subdivision (b)(11) of this section, for allowing a taxpayer reasonable notice in advance of the release of the requested information, for a period of time up to seven (7) days from the date a request for information is made to provide notice and make necessary determinations, and to provide the methods by which the ~~Director~~ Secretary of the Department of Finance and Administration shall determine if the information requested is subject to disclosure under Arkansas law.

SECTION 3535. Arkansas Code § 26-18-303(h)(1), concerning confidential records, privilege, and exceptions, is amended to read as follows:

(h)(1) Upon the request of a county government or a city government, the ~~Director~~ Secretary of the Department of Finance and Administration shall provide a list of vendors within the requesting county or city who hold permits issued pursuant to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

SECTION 3536. The introductory language of Arkansas Code § 26-18-303(i)(1), concerning confidential records, privilege, and exceptions, is amended to read as follows:

1 (i)(1) The ~~Director~~ Secretary of the Department of Finance and
2 Administration may disclose information from a return filed by a person,
3 partnership, corporation, trust, or estate to any of the parties who signed
4 the return:

5
6 SECTION 3537. Arkansas Code § 26-18-303(i)(2) and (3), concerning
7 confidential records, privilege, and exceptions, are amended to read as
8 follows:

9 (2) The ~~Director~~ Secretary of the Department of Finance and
10 Administration may also disclose all information concerning the collection
11 activity related to a tax return to any party who signed the return.

12 (3) The ~~Director~~ Secretary of the Department of Finance and
13 Administration shall promulgate such regulations as are necessary to
14 establish a reasonable procedure for making requests for and for the release
15 of information under this section.

16
17 SECTION 3538. Arkansas Code § 26-18-303(j)(1)(C), concerning
18 confidential records, privilege, and exceptions, is amended to read as
19 follows:

20 (C) The sharing of documents and other information between
21 the ~~Director~~ Secretary of the Department of Finance and Administration, the
22 Attorney General, and the Director of Arkansas Tobacco Control will put the
23 state in a better position to prevent tobacco diversion and prevent
24 cigarettes from being sold to youth and an already addicted adult population.

25
26 SECTION 3539. Arkansas Code § 26-18-303(j)(2), concerning confidential
27 records, privilege, and exceptions, is amended to read as follows:

28 (2) The ~~Director~~ Secretary of the Department of Finance and
29 Administration may disclose documents and other information submitted by
30 stamp deputies appointed under § 26-57-236 or those persons licensed or
31 permitted under the terms of the Arkansas Tobacco Products Tax Act of 1977, §
32 26-57-201 et seq., to the Attorney General or the Director of Arkansas
33 Tobacco Control upon the request of the Attorney General or the Director of
34 Arkansas Tobacco Control.

35
36 SECTION 3540. Arkansas Code § 26-18-303(j)(4)(A), concerning

1 confidential records, privilege, and exceptions, is amended to read as
2 follows:

3 (4)(A) The Attorney General and the Director of Arkansas Tobacco
4 Control may use the documents and other information provided under this
5 subsection by the ~~Director~~ Secretary of the Department of Finance and
6 Administration in proceedings before any court.

7
8 SECTION 3541. Arkansas Code § 26-18-303(j)(4)(B)(i), concerning
9 confidential records, privilege, and exceptions, is amended to read as
10 follows:

11 (B)(i) However, the documents and other information shall
12 not be presented in court except with the approval of the court in which the
13 action is pending and after adequate notice to the person who initially
14 furnished the documents or other information to the ~~Director~~ Secretary of the
15 Department of Finance and Administration.

16
17 SECTION 3542. Arkansas Code § 26-18-312(a), concerning signatures on
18 electronic forms, is amended to read as follows:

19 (a) The ~~Director~~ Secretary of the Department of Finance and
20 Administration shall develop procedures for the acceptance of signatures on
21 state tax returns or reports in digital or other electronic form.

22
23 SECTION 3543. Arkansas Code § 26-18-509 is amended to read as follows:
24 26-18-509. Liability for payment of taxes – Falsification of sales
25 transaction records.

26 A person who violates § 5-37-507 is liable to the state for a civil
27 penalty equal to the total amount of the tax evaded, not collected, or not
28 accounted for and paid over to the ~~Director~~ Secretary of the Department of
29 Finance and Administration that results from the violation.

30
31 SECTION 3544. Arkansas Code § 26-18-701(a)(1), concerning the issuance
32 of certificates of indebtedness and execution, is amended to read as follows:

33 (a)(1)(A) If a taxpayer does not timely and properly pursue his or her
34 remedies seeking relief from a decision of the ~~Director~~ Secretary of the
35 Department of Finance and Administration and a final assessment is made
36 against the taxpayer, or if the taxpayer fails to pay the deficiency assessed

1 upon notice and demand, then the ~~director~~ secretary shall, as soon as
2 practicable thereafter, issue to the circuit clerk of any county of the state
3 a certificate of indebtedness certifying that the person named in the
4 certificate of indebtedness is indebted to the state for the amount of the
5 tax established by the ~~director~~ secretary as due.

6 (B)(i) If a taxpayer has a delinquent tax liability to the
7 State of Arkansas of less than one thousand dollars (\$1,000), the ~~director~~
8 secretary may enter into an agreement with the taxpayer to allow the taxpayer
9 to pay the delinquency in installments.

10 (ii) The ~~director~~ secretary may choose not to issue
11 a certificate of indebtedness during the period of the installment agreement
12 if he or she determines that it is in the best interest of the state.

13 (C)(i) If a taxpayer has a total delinquent individual
14 income tax liability to the State of Arkansas of less than two thousand
15 dollars (\$2,000), the ~~director~~ secretary may enter into an agreement with the
16 taxpayer to allow the taxpayer to pay the delinquency in installments if:

17 (a) The installment agreement is for a period
18 of twelve (12) months or less; and

19 (b) The installments are to be paid
20 electronically.

21 (ii) The ~~director~~ secretary may choose not to issue
22 a certificate of indebtedness during the period of the installment agreement
23 if he or she determines that the issuance of a certificate of indebtedness is
24 not in the best interest of the state.

25
26 SECTION 3545. Arkansas Code § 26-18-701(a)(3)(C)(iii), concerning the
27 issuance of certificates of indebtedness and execution, is amended to read as
28 follows:

29 (iii) The ~~director~~ secretary shall not be required
30 to file a release on a lien which has expired, and the provisions of § 26-18-
31 808 dealing with failure to release liens are not applicable to this section.

32
33 SECTION 3546. Arkansas Code § 26-18-701(b), concerning the issuance of
34 certificates of indebtedness and execution, is amended to read as follows:

35 (b)(1) After entry of the certificate of indebtedness, the circuit
36 clerk shall issue a writ of execution directed to the ~~director~~ secretary,

1 authorizing the ~~director~~ secretary to levy upon and against all real and
2 personal property of the taxpayer.

3 (2) The ~~director~~ secretary shall have all remedies and may take
4 all proceedings for the collection of the tax which may be taken for the
5 recovery of a judgment at law.

6 (3) The writ of execution shall be issued, served, and executed
7 in the same manner as provided for in the issuance and service of executions
8 rendered by the circuit courts of this state, except the ~~director~~ secretary
9 shall act in the place of the county sheriffs.

10 (4) The ~~director~~ secretary shall have this authority for all
11 liens either presently filed or filed after the passage of this act.

12
13 SECTION 3547. Arkansas Code § 26-18-701(c)(1), concerning the issuance
14 of certificates of indebtedness and execution, is amended to read as follows:

15 (c)(1) Nothing in this chapter shall preclude the ~~director~~ secretary
16 from resorting to any other means provided by law for collecting delinquent
17 taxes.

18
19 SECTION 3548. Arkansas Code § 26-18-701(c)(4), concerning the issuance
20 of certificates of indebtedness and execution, is amended to read as follows:

21 (4) In the name of the state, the ~~director~~ secretary may sue to
22 the same effect and extent as for the enforcement of a right of action for
23 debt.

24
25 SECTION 3549. Arkansas Code § 26-18-701(d)(1)(A), concerning the
26 issuance of certificates of indebtedness and execution, is amended to read as
27 follows:

28 (d)(1)(A) In addition to the remedies provided in subsections (b) and
29 (c) of this section, the ~~director~~ secretary may direct the circuit clerk to
30 issue a writ of execution directed to the county sheriff of any county
31 authorizing the county sheriff to levy upon and against all real and personal
32 property of the taxpayer.

33
34 SECTION 3550. Arkansas Code § 26-18-701(d)(2)(B) and (C), concerning
35 the issuance of certificates of indebtedness and execution, are amended to
36 read as follows:

1 (B) These fees shall be collected from the taxpayer by
2 either the ~~director~~ secretary or the county sheriff in addition to the tax,
3 penalties, and interest included in the certificate of indebtedness.

4 (C) If the county sheriff is unable after diligent effort
5 to collect the tax, interest, penalties, and costs, the ~~director~~ secretary
6 may pay such fees as are properly shown to be due to the circuit clerk and
7 county sheriff.

8
9 SECTION 3551. Arkansas Code § 26-18-701(e), concerning the issuance of
10 certificates of indebtedness and execution, is amended to read as follows:

11 (e) The ~~director~~ secretary may contract with persons inside or outside
12 the state to help the ~~director~~ secretary collect delinquencies of resident or
13 nonresident taxpayers.

14
15 SECTION 3552. Arkansas Code § 26-18-705 is amended to read as follows:
16 26-18-705. Settlement or compromise of liability controversies.

17 (a) The ~~Director~~ Secretary of the Department of Finance and
18 Administration may enter into an agreement to compound, settle, or compromise
19 any controversy relating to a state tax or any admitted or established tax
20 liability as to any tax collectible under any state law when:

21 (1) The controversy is over the amount of tax due; or

22 (2) The inability to pay results from the insolvency of the
23 taxpayer.

24 (b) The ~~director~~ secretary may waive or remit the interest or penalty,
25 or any portion of the interest or penalty, ordinarily accruing because of a
26 taxpayer's failure to pay a state tax within the statutory period allowed for
27 its payment:

28 (1) If the taxpayer's failure to pay the tax is satisfactorily
29 explained to the ~~director~~ secretary;

30 (2) If the failure results from a mistake by the taxpayer of
31 either the law or the facts subjecting him or her to such tax; or

32 (3) If the inability to pay the interest or penalty results from
33 the insolvency or bankruptcy of the taxpayer.

34 (c)(1) In settling or compromising any controversy relating to the
35 liability of a person for any state tax for any taxable period, the ~~director~~
36 secretary may enter into a written closing agreement concerning the

1 liability.

2 (2) When the closing agreement is signed by the ~~director~~
3 secretary, it shall be final and conclusive, and except upon a showing of
4 fraud or misrepresentation of a material fact, no additional assessment or
5 collection shall be made by the ~~director~~ secretary, and the taxpayer shall
6 not institute any judicial proceeding to recover such liabilities as agreed
7 to in the closing agreement.

8 (d) The ~~director~~ secretary shall promulgate rules and regulations
9 establishing guidelines for determining whether a proposed offer in
10 compromise is adequate and is acceptable to resolve a tax dispute.

11

12 SECTION 3553. Arkansas Code § 26-18-901 is amended to read as follows:

13 26-18-901. Office of Problems Resolution and Tax Information.

14 (a) The ~~Director~~ Secretary of the Department of Finance and
15 Administration shall request the General Assembly to appropriate funds and
16 create positions for an Office of Problems Resolution and Tax Information,
17 which shall resolve taxpayer problems directly and provide information to
18 taxpayers concerning tax law. This office shall report directly to the
19 ~~Administrative Assistant of Revenues~~ secretary or his or her designee.

20 (b) The ~~director~~ secretary shall have the authority to establish the
21 duties of the office. The office shall give highest priority to reviewing
22 taxpayer problems and taking prompt and appropriate action to resolve
23 problems and respond to taxpayers.

24

25 SECTION 3554. Arkansas Code § 26-18-902(a), concerning the creation of
26 the Tax Advisory Council, is amended to read as follows:

27 (a) The ~~Director~~ Secretary of the Department of Finance and
28 Administration shall establish a Tax Advisory Council consisting of
29 representatives of the Arkansas Bar Association, the Arkansas Society of
30 Certified Public Accountants, the Arkansas Society of Public Accountants, the
31 Office of Problems Resolution and Tax Information, other taxpayer-oriented
32 groups, and other representatives of the Revenue Division of the Department
33 of Finance and Administration.

34

35 SECTION 3555. Arkansas Code § 26-18-903 is amended to read as follows:

36 26-18-903. Employee evaluation criteria.

1 The ~~Director~~ Secretary of the Department of Finance and Administration
2 shall develop employee evaluation criteria requiring compliance with the
3 Taxpayer Bill of Rights, § 26-18-801 et seq., and quality taxpayer
4 assistance, which shall be included in the annual evaluation of each employee
5 whose job responsibilities include taxpayer contact.

6
7 SECTION 3556. The introductory language of Arkansas Code § 26-18-
8 904(a), concerning collection activity, erroneous action, and a claim for
9 damages, is amended to read as follows:

10 (a) A claim may be filed with the Department of Finance and
11 Administration for any actual damages sustained as a result of any erroneous
12 action taken in a collection activity. Each claimant applying for
13 reimbursement shall file a claim in such form as may be prescribed by the
14 ~~Director~~ Secretary of the Department of Finance and Administration. In order
15 for the claim to be granted, the claimant must establish that:

16
17 SECTION 3557. The introductory language of Arkansas Code § 26-18-
18 1001(a), concerning business closure authority and notice, is amended to read
19 as follows:

20 (a) In addition to all other remedies provided by law for the
21 collection of unpaid taxes, the ~~Director~~ Secretary of the Department of
22 Finance and Administration may close the business of a noncompliant taxpayer
23 as defined by § 26-18-104, subject to the administrative and judicial appeal
24 procedures in this subchapter, if the noncompliant taxpayer for three (3)
25 times within any consecutive twenty-four-month period fails to either:

26
27 SECTION 3558. Arkansas Code § 26-18-1001(b)(1), concerning business
28 closure authority and notice, is amended to read as follows:

29 (b)(1) The ~~director~~ secretary shall give notice to the noncompliant
30 taxpayer that the third delinquency in reporting or remitting tax in any
31 consecutive twenty-four-month period will result in the closure of the
32 business.

33
34 SECTION 3559. Arkansas Code § 26-18-1001(c)(1), concerning business
35 closure authority and notice, is amended to read as follows:

36 (c)(1) If the noncompliant taxpayer has a third delinquency in

1 reporting or remitting tax in any consecutive twenty-four-month period after
2 the issuance of the notice provided in subsection (b) of this section, the
3 ~~director~~ secretary shall notify the noncompliant taxpayer by certified mail
4 or by hand delivery that the business will be closed within five (5) business
5 days from the date of the notice unless the noncompliant taxpayer makes
6 arrangements with the ~~director~~ secretary to satisfy the tax delinquency.

7
8 SECTION 3560. Arkansas Code § 26-18-1001(d)(2), concerning business
9 closure authority and notice, is amended to read as follows:

10 (2) Entering into a payment agreement approved by the ~~director~~
11 secretary to satisfy the tax delinquency.

12
13 SECTION 3561. Arkansas Code § 26-18-1001(e), concerning business
14 closure authority and notice, is amended to read as follows:

15 (e) After written notice delivered to a lottery retailer by the United
16 States Postal Service or by hand delivery, the ~~director~~ secretary may pursue
17 a remedy under this subchapter against a lottery retailer as a noncompliant
18 taxpayer upon receiving a referral from the Office of the Arkansas Lottery
19 under § 23-115-605.

20
21 SECTION 3562. Arkansas Code § 26-18-1002(a), concerning administrative
22 hearings, is amended to read as follows:

23 (a) A noncompliant taxpayer may request an administrative hearing
24 concerning the decision of the ~~Director~~ Secretary of the Department of
25 Finance and Administration to close the noncompliant taxpayer's business by
26 following the procedures in this section.

27
28 SECTION 3563. Arkansas Code § 26-18-1002(c)(2), concerning
29 administrative hearings, is amended to read as follows:

30 (2) The ~~director~~ secretary has the discretion to determine
31 whether an administrative hearing at which testimony is to be presented will
32 be conducted in person or by telephone.

33
34 SECTION 3564. Arkansas Code § 26-18-1002(d), concerning administrative
35 hearings, is amended to read as follows:

36 (d) The administrative hearing will be conducted by a hearing officer

1 appointed by the ~~director~~ secretary under § 26-18-405.

2
3 SECTION 3565. Arkansas Code § 26-18-1002(f), concerning administrative
4 hearings, is amended to read as follows:

5 (f)(1) The hearing may be held in any city in which the Revenue
6 Division of the Department of Finance and Administration maintains a field
7 audit district office or in such other city as the ~~director~~ secretary may
8 designate.

9 (2) The administrative hearing will be held within fourteen (14)
10 calendar days of receipt by the ~~director~~ secretary of the request for
11 hearing.

12
13 SECTION 3566. Arkansas Code § 26-18-1002(h)(2), concerning
14 administrative hearings, is amended to read as follows:

15 (2) That the noncompliant taxpayer has entered into a written
16 payment agreement, approved by the ~~director~~ secretary, to satisfy the tax
17 delinquency.

18
19 SECTION 3567. Arkansas Code § 26-18-1002(j), concerning administrative
20 hearings, is amended to read as follows:

21 (j) A decision of the hearing officer to sustain the ~~director's~~
22 secretary's decision to close the business of the noncompliant taxpayer is
23 effective twenty (20) days after the date of the decision and, except as
24 provided under § 26-18-1003, acts as an injunction prohibiting further
25 operation of the business.

26
27 SECTION 3568. Arkansas Code § 26-18-1003(a)(1), concerning the
28 definition of "administrative decision" under the laws regarding judicial
29 relief, is amended to read as follows:

30 (1) "Administrative decision" means a decision issued under §
31 26-18-1002 to affirm the decision of the ~~Director~~ Secretary of the Department
32 of Finance and Administration to close the business of a noncompliant
33 taxpayer;

34
35 SECTION 3569. Arkansas Code § 26-18-1003(a)(3), concerning the
36 definition of "business closure order" under the laws regarding judicial

1 relief, is amended to read as follows:

2 (3) "Business closure order" means a notice of closure issued by
3 the ~~director~~ secretary under § 26-18-1001.

4

5 SECTION 3570. Arkansas Code § 26-18-1003(c)(1)(B), concerning judicial
6 relief, is amended to read as follows:

7 (B) An order of a circuit court to stay the effect of an
8 administrative decision may be revoked if the ~~director~~ secretary provides
9 proof that the taxpayer has failed to timely file returns for or make full
10 payment of the taxes identified in § 26-18-1001(a) after the date suit is
11 filed under this section.

12

13 SECTION 3571. Arkansas Code § 26-18-1003(c)(2), concerning judicial
14 relief, is amended to read as follows:

15 (2) If a noncompliant taxpayer fails to obtain an order staying
16 the effect of the administrative decision or if an order staying the effect
17 of the administrative decision is later revoked, the ~~director~~ secretary shall
18 follow the procedures in §§ 26-18-1004 and 26-18-1005 to enforce the closure
19 of the business pending the outcome of the suit filed under this section.

20

21 SECTION 3572. Arkansas Code § 26-18-1003(d), concerning judicial
22 relief, is amended to read as follows:

23 (d) The noncompliant taxpayer or the ~~director~~ secretary may file an
24 appeal of the circuit court decision to the appropriate appellate court as
25 provided by law.

26

27 SECTION 3573. The introductory language of Arkansas Code § 26-18-
28 1004(a), concerning the procedures for business closure, is amended to read
29 as follows:

30 (a) If a noncompliant taxpayer fails to timely seek administrative or
31 judicial review of a business closure decision or if the business closure
32 decision is affirmed after administrative or judicial review, the ~~Director~~
33 Secretary of the Department of Finance and Administration shall affix a
34 written notice to all entrances of the business that:

35

36 SECTION 3574. Arkansas Code § 26-18-1004(b), concerning the procedures

1 for business closure, is amended to read as follows:

2 (b)(1) The ~~director~~ secretary may also lock or otherwise secure the
3 business so that it may not be operated.

4 (2) However, if the business is located in the noncompliant
5 taxpayer's home, the ~~director~~ secretary shall not lock or otherwise secure
6 the business but may post the notice under subsection (a) of this section.
7

8 SECTION 3575. Arkansas Code § 26-18-1004(c) and (d), concerning the
9 procedures for business closure, are amended to read as follows:

10 (c) The ~~director~~ secretary may request the assistance of the
11 ~~Department~~ Division of Arkansas State Police or any state or local law
12 enforcement official to post the notice or to secure the business as
13 authorized in this section.

14 (d) Any taxpayer information disclosed by the ~~director~~ secretary under
15 the procedures outlined in this section shall not be subject to the
16 confidentiality provisions of § 26-18-303.
17

18 SECTION 3576. Arkansas Code § 26-18-1005(a), concerning the suspension
19 of a business license, is amended to read as follows:

20 (a) After the decision to close the noncompliant taxpayer's business
21 becomes final, the ~~Director~~ Secretary of the Department of Finance and
22 Administration shall contact the appropriate administrative body responsible
23 for granting licenses to operate the business and report the closure of the
24 business.
25

26 SECTION 3577. Arkansas Code § 26-18-1006 is amended to read as
27 follows:

28 26-18-1006. Authority to promulgate rules.

29 The ~~Director~~ Secretary of the Department of Finance and Administration
30 may promulgate rules necessary for the enforcement of this subchapter.
31

32 SECTION 3578. Arkansas Code § 26-19-103 is amended to read as follows:

33 26-19-103. Authority of ~~director~~ Secretary of the Department of
34 Finance and Administration.

35 The ~~Director~~ Secretary of the Department of Finance and Administration
36 is authorized to require, and to contract for services necessary to

1 implement, payment of taxes as specified in this subchapter by electronic
2 funds transfer. Provided, however, that this subchapter shall not be
3 construed to require the ~~director~~ secretary to contract for such services or
4 implement a system for payment of any taxes by electronic funds transfer if
5 the ~~director~~ secretary determines that it is fiscally unsound or
6 administratively burdensome to do so.

7
8 SECTION 3579. The introductory language of Arkansas Code § 26-19-
9 105(a)(1), concerning tax payments by a taxpayer, is amended to read as
10 follows:

11 (a)(1) If the ~~Director~~ Secretary of the Department of Finance and
12 Administration determines that a taxpayer's monthly liability for the
13 following taxes for any calendar year equals or exceeds twenty thousand
14 dollars (\$20,000), the taxpayer shall pay any tax due by electronic funds
15 transfer:

16
17 SECTION 3580. The introductory language of Arkansas Code § 26-19-
18 105(a)(2), concerning tax payments by a taxpayer, is amended to read as
19 follows:

20 (2) If the ~~director~~ secretary determines that a taxpayer's
21 monthly liability for the following taxes for any calendar year equals or
22 exceeds twenty thousand dollars (\$20,000), the taxpayer shall pay the taxes
23 due by electronic funds transfer:

24
25 SECTION 3581. Arkansas Code § 26-19-105(c)(2)(C), concerning tax
26 payments by a taxpayer, is amended to read as follows:

27 (C) The annual withholding return shall be made on such a
28 form and shall include such information as the ~~director~~ secretary prescribes.

29
30 SECTION 3582. Arkansas Code § 26-19-106(a), concerning tax payments by
31 corporations, is amended to read as follows:

32 (a) If the ~~Director~~ Secretary of the Department of Finance and
33 Administration determines that a corporation's estimated quarterly state
34 income tax liability under § 26-51-911 et seq. equals or exceeds twenty
35 thousand dollars (\$20,000), the corporation shall pay the quarterly income
36 taxes due by electronic funds transfer.

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SECTION 3583. Arkansas Code § 26-19-106(c)(1), concerning tax payments by corporations, is amended to read as follows:

(c)(1) The transfer shall be made no later than the day before the due date for payment of the taxes so that payment of the taxes is received by the ~~director~~ secretary on or before the due date for payment of the taxes as required by the laws of this state.

SECTION 3584. Arkansas Code § 26-19-107(c)(1)(B), concerning penalties in regards to electronic funds, is amended to read as follows:

(B) The taxpayer accurately provides the ~~Director~~ Secretary of the Department of Finance and Administration with sufficient information from which the payment may be applied to the correct account, including, but not limited to, the taxpayer's name, account number, tax type, tax period, and the amount of the payment; and

SECTION 3585. Arkansas Code § 26-19-107(c)(2)(B), concerning penalties in regards to electronic funds, is amended to read as follows:

(B) The transfer contains an electronic addenda which allows the ~~director~~ secretary to identify the taxpayer, tax account number, tax payment amount, tax type, and tax period in accordance with instructions provided by the ~~director~~ secretary;

SECTION 3586. Arkansas Code § 26-19-107(c)(3)(B), concerning penalties in regards to electronic funds, is amended to read as follows:

(B) The ~~director~~ secretary will notify the taxpayer in writing of the failure to meet the conditions with respect to a particular reporting period.

SECTION 3587. Arkansas Code § 26-19-108 is amended to read as follows:
26-19-108. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration is authorized to adopt rules and regulations which he or she deems necessary to implement and enforce the provisions of this subchapter.

SECTION 3588. Arkansas Code § 26-20-102(4), concerning the definition

1 of "director" under the Uniform Sales and Use Tax Administration Act, is
2 repealed.

3 ~~(4) "Director" means the Director of the Department of Finance~~
4 ~~and Administration;~~

5
6 SECTION 3589. Arkansas Code § 26-20-104 is amended to read as follows:
7 26-20-104. Authority to enter agreement.

8 (a) The ~~Director~~ Secretary of the Department of Finance and
9 Administration is authorized and directed to enter into the Streamlined Sales
10 and Use Tax Agreement with one (1) or more states to simplify and modernize
11 sales and use tax administration in order to substantially reduce the burden
12 of tax compliance for all sellers and for all types of commerce.

13 (b) In furtherance of the agreement, the ~~director~~ secretary is
14 authorized to act jointly with other states that are members of the agreement
15 to establish standards for certification of a certified service provider and
16 certified automated system and establish performance standards for multistate
17 sellers.

18 (c) The ~~director~~ secretary is further authorized to take other actions
19 reasonably required to implement the provisions set forth in this chapter.

20 (d) Other actions authorized by this section include, but are not
21 limited to, the adoption of rules and regulations and the joint procurement,
22 with other member states, of goods and services in furtherance of the
23 cooperative agreement.

24 (e) The ~~director~~ secretary or his or her designee is authorized to
25 represent this state before the other states that are signatories to the
26 agreement.

27

28 SECTION 3590. The introductory language of Arkansas Code § 26-20-106,
29 concerning the requirements for the Director of the Department of Finance and
30 Administration to enter into an agreement, is amended to read as follows:

31 The ~~Director~~ Secretary of the Department of Finance and Administration
32 shall not enter into the agreement unless it requires each state to abide by
33 the following requirements:

34

35 SECTION 3591. Arkansas Code § 26-21-107(b)(1), concerning the
36 administration of use-based exemptions, is amended to read as follows:

1 (b)(1) A seller that follows the exemption requirements as prescribed
2 by the ~~Director~~ Secretary of the Department of Finance and Administration
3 shall be relieved from any tax otherwise applicable if it is determined that
4 the purchaser improperly claimed an exemption.

5
6 SECTION 3592. The introductory language of Arkansas Code § 26-21-
7 108(a), concerning returns and remittance of funds, is amended to read as
8 follows:

9 (a) The ~~Director~~ Secretary of the Department of Finance and
10 Administration shall promulgate rules to provide:

11
12 SECTION 3593. Arkansas Code § 26-21-110(a), concerning amnesty for
13 unpaid sales or use tax upon registration, is amended to read as follows:

14 (a) The ~~Director~~ Secretary of the Department of Finance and
15 Administration shall provide amnesty for uncollected or unpaid sales or use
16 tax to a seller that registers to pay or to collect and remit applicable
17 sales or use tax on sales made to purchasers in the state in accordance with
18 the terms of the agreement, provided that the seller was not registered to
19 collect sales and use tax in the State of Arkansas in the twelve-month period
20 preceding the effective date of the state's participation in the agreement.

21
22 SECTION 3594. The introductory language of Arkansas Code § 26-21-
23 110(g), concerning amnesty for unpaid sales or use tax upon registration, is
24 amended to read as follows:

25 (g) The ~~director~~ secretary shall also provide amnesty to a seller for
26 uncollected or unpaid sales or use tax if:

27
28 SECTION 3595. The introductory language of Arkansas Code § 26-21-
29 111(a), concerning the certification and payment of service providers and
30 automated systems, is amended to read as follows:

31 (a) The ~~Director~~ Secretary of the Department of Finance and
32 Administration may:

33
34 SECTION 3596. Arkansas Code § 26-21-113 is amended to read as follows:
35 26-21-113. Promulgation of rules.

36 The ~~Director~~ Secretary of the Department of Finance and Administration

1 shall promulgate rules and develop forms to implement the provisions of this
2 chapter.

3

4 SECTION 3597. Arkansas Code § 26-21-114(4), concerning the governing
5 board under the Streamlined Sales Tax Administrative Act, is amended to read
6 as follows:

7 (4) The ~~Director~~ Secretary of the Department of Finance and
8 Administration or his or her designee.

9

10 SECTION 3698. Arkansas Code § 26-25-107 is amended to read as follows:
11 26-25-107. Ordinance.

12 (a)(1) Every city or county that adopts an ordinance levying a local
13 sales and use tax which is collected by the ~~Director~~ Secretary of the
14 Department of Finance and Administration shall submit the ordinance to the
15 ~~director~~ secretary at least forty-five (45) days prior to the election on the
16 levy.

17 (2) The ~~director~~ secretary shall review the ordinance to
18 determine if the proposed levy complies with all statutory requirements and
19 limitations, including a separate levy of the sales and use tax, and an
20 authorized sales or use tax rate.

21 (b)(1) The ~~director~~ secretary shall approve or reject the ordinance
22 and provide written notice to the city or county within fifteen (15) days of
23 receipt of the ordinance.

24 (2)(A) If the ordinance is rejected, the ~~director~~ secretary
25 shall note the defects.

26 (B) If the ordinance is rejected and the city or county
27 fails to correct the noted defects, any tax levied by the defective ordinance
28 shall not be collected by the ~~director~~ secretary.

29 (c) Whenever a special election is called for the purpose of
30 submitting an initiated measure which levies a city or county sales and use
31 tax to be collected by the ~~director~~ secretary, the county board of election
32 commissioners shall submit the initiated measure to the ~~director~~ secretary
33 and the provisions of subsections (a) and (b) of this section shall apply.

34 (d) No ordinance or initiated measure shall be deemed invalid because
35 of the failure to submit the ordinance or measure to the ~~director~~ secretary
36 or to use a sample form, and such failure shall not constitute a cause of

1 action to invalidate an ordinance or initiated measure.

2
3 SECTION 3599. Arkansas Code § 26-26-502 is amended to read as follows:
4 26-26-502. Deputy county assessors.

5 The county assessor in each county, with the approval of the ~~Director~~
6 Secretary of the Department of Finance and Administration, is authorized to
7 deputize one (1) or more full-time or part-time clerks or other employees in
8 the county revenue office and to authorize these deputies to assess personal
9 property or to list personal property for assessment for ad valorem taxes.

10
11 SECTION 3600. Arkansas Code § 26-26-706(a), concerning a list of motor
12 vehicle licenses, is amended to read as follows:

13 (a) The ~~Director~~ Secretary of the Department of Finance and
14 Administration shall institute a system in which the county assessor and the
15 county collector shall notify the ~~director~~ secretary that a vehicle owner has
16 assessed a vehicle and has paid all personal property taxes that were due by
17 the preceding October 15. Upon receipt of the notification, the ~~director~~
18 secretary shall renew the vehicle license.

19
20 SECTION 3601. Arkansas Code § 26-26-1604(a)(2), concerning delinquency
21 in a filing statement, is amended to read as follows:

22 (2) The Tax Division of the Arkansas Public Service Commission
23 shall advise the company in writing of the delinquency, and, thereafter,
24 should the company fail to file the statement before May 1, the division
25 shall immediately report the delinquency to the appropriate commission, and
26 should delinquency exist on May 31 of the assessment year, the commission
27 shall certify the delinquency to the ~~Director~~ Secretary of the Department of
28 Finance and Administration.

29
30 SECTION 3602. Arkansas Code § 26-26-1604(b), concerning delinquency in
31 a filing statement, is amended to read as follows:

32 (b)(1) By proper action in the name of the state, the ~~director~~
33 secretary may recover from any delinquent company a penalty not to exceed one
34 hundred dollars (\$100) for each day's delinquency, beginning as of March 1 of
35 the assessment year.

36 (2) In the alternative, the ~~director~~ secretary may petition the

1 commission for revocation of the certificate or permit of authority issued to
2 the delinquent company to operate in the State of Arkansas.

3
4 SECTION 3603. Arkansas Code § 26-26-1610(b)(2)(A), concerning the
5 notice of assessment and review of funds, is amended to read as follows:

6 (2)(A) All hearings on the petition shall be had before the
7 appropriate commission or its agent on or before November 1 after assessment
8 notice has been given. However, hearings on petitions for review of
9 assessments of bus lines, motor carriers, airlines, water transportation
10 companies, and private car companies, which assessments are certified to the
11 ~~Director~~ Secretary of the Department of Finance and Administration for
12 collection of tax, shall be to the appropriate commission or its agent, on or
13 before December 31 of the assessing year.

14
15 SECTION 3604. Arkansas Code § 26-26-1614 is amended to read as
16 follows:

17 26-26-1614. Levy and collection of taxes.

18 (a)(1) Having ascertained and fixed the taxable value of the tangible
19 and intangible property used or held for use in the operation of each
20 intercounty bus line, intercounty motor freight, airline, or water
21 transportation company, as required by law, the Tax Division of the Arkansas
22 Public Service Commission shall levy and extend against each valuation the
23 average rate of ad valorem levy prevailing throughout this state for the
24 assessment year, and then ten (10) days before the due date, the division
25 shall certify the tax to the ~~Director~~ Secretary of the Department of Finance
26 and Administration for collection.

27 (2) The ~~director~~ secretary shall immediately forward by first-
28 class mail a notice showing the assessed valuation, applicable rate of levy,
29 the amount of tax charged, and the due date of the tax charged to each
30 company against which a tax has been extended and so certified.

31 (b)(1) If the taxes are not paid on or before the date on which ad
32 valorem taxes or any part of ad valorem taxes on personal property become
33 delinquent, the ~~director~~ secretary shall add a penalty of ten percent (10%)
34 and mail a statement of the tax and penalty to each person, company, or
35 corporation so delinquent.

36 (2)(A) If the tax and penalty are not paid on or before the date

1 on which a county collector may collect taxes by distraint, in lieu of the
2 ten percent (10%) penalty, the ~~director~~ secretary shall add to the tax a
3 penalty of twenty-five percent (25%).

4 (B) The statement of tax and ten percent (10%) penalty
5 from the ~~director~~ secretary shall warn that if the tax and penalty are not
6 paid within the time stated, in lieu of the ten percent (10%) penalty, a
7 penalty of twenty-five percent (25%) will be added.

8 (c)(1) For the purpose of collecting the taxes and penalties, in
9 addition to the powers vested in the ~~director~~ secretary for the collection of
10 taxes, the ~~director~~ secretary shall have all the powers vested in county
11 collectors for the purpose of collecting delinquent personal property taxes.

12 (2) The ~~director~~ secretary may petition the Arkansas Public
13 Service Commission for revocation of the certificate or permit of authority
14 issued to the delinquent company to operate in the State of Arkansas.

15
16 SECTION 3605. Arkansas Code § 26-26-1706 is amended to read as
17 follows:

18 26-26-1706. Levy of tax, collection, and penalty for delinquency.

19 (a) The Tax Division of the Arkansas Public Service Commission, having
20 ascertained and fixed the assessed valuation of the cars of each private car
21 company as provided in § 26-26-1705, shall levy and extend against each
22 valuation the average rate of ad valorem levy prevailing throughout the state
23 for the respective assessment year, this rate to be determined as provided by
24 § 26-26-1615, whereupon, the division, ten (10) days before due date, shall
25 certify the tax so extended to the ~~Director~~ Secretary of the Department of
26 Finance and Administration for collection.

27 (b) The ~~director~~ secretary shall immediately forward by first-class
28 mail to each private car company against which a tax has been extended and so
29 certified a notice showing the assessed valuation, the applicable rate of
30 levy, the amount of tax charged, and the due date thereof.

31 (c)(1) If the taxes are not paid on or before the date on which taxes,
32 ad valorem, or any part thereof, on personal property become delinquent, the
33 ~~director~~ secretary shall add a penalty of ten percent (10%) and mail to each
34 company so delinquent a statement of the tax and penalty.

35 (2)(A) If the tax and penalty are not paid on or before the date
36 on which county collectors are authorized to collect taxes by distraint, the

1 ~~director~~ secretary shall, in lieu of the ten percent (10%) penalty, add to
2 the tax a penalty of twenty-five percent (25%) and certify the tax and
3 penalty to the Attorney General for collection.

4 (B) The ~~director's~~ secretary's statement of tax and ten
5 percent (10%) penalty shall warn that if the tax and penalty are not paid
6 within the time therein stated, in lieu of the ten percent (10%) penalty, a
7 penalty of twenty-five percent (25%) will be added, and the tax and penalty
8 shall be certified to the Attorney General for collection.

9 (d) For the purpose of collecting these taxes and penalties, the
10 ~~director~~ secretary or the Attorney General, in addition to the powers in them
11 vested for the collection of taxes, shall have all the powers vested in
12 county collectors for the purpose of collecting delinquent personal property
13 taxes.

14
15 SECTION 3606. Arkansas Code § 26-34-109(d), concerning common carriers
16 and not carrying goods on which taxes are not paid, is amended to read as
17 follows:

18 (d) All taxes due under this section may be recovered by a civil
19 action brought at the instance of the Attorney General in the name of the
20 ~~Director~~ Secretary of the Department of Finance and Administration of the
21 State of Arkansas.

22
23 SECTION 3607. Arkansas Code § 26-36-306 is amended to read as follows:
24 26-36-306. Minimum sum collectible.

25 A claimant agency shall not be allowed to effect final setoff and
26 collect debts through use of the remedy established under this subchapter
27 unless the debt is at least twenty dollars (\$20.00). However, the Revenue
28 Division of the Department of Finance and Administration may set off any
29 lesser sum, regardless of this provision, which the ~~Director~~ Secretary of the
30 Department of Finance and Administration shall establish as economically
31 justifiable.

32
33 SECTION 3608. Arkansas Code § 26-36-309(b)(2), concerning the
34 notification of a debtor, is amended to read as follows:

35 (2) The notification form shall be approved by the ~~Director~~
36 Secretary of the Department of Finance and Administration.

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SECTION 3609. Arkansas Code § 26-36-315(b)(1), concerning joint refunds, is amended to read as follows:

(b)(1) The ~~Director~~ Secretary of the Department of Finance and Administration shall notify each taxpayer due a joint refund of the amount and the date of a proposed setoff for a debt certified by a claimant agency to the Revenue Division of the Department of Finance and Administration.

SECTION 3610. Arkansas Code § 26-36-315(c)(2), concerning joint refunds, is amended to read as follows:

(2) The nondebtor taxpayer may request the ~~director~~ secretary to consider his or her request for relief upon written documents furnished by the nondebtor taxpayer or upon the written document and the evidence produced by the nondebtor taxpayer at a hearing conducted under the Arkansas Tax Procedure Act, § 26-18-101 et seq.

SECTION 3611. Arkansas Code § 26-36-315(d), concerning joint refunds, is amended to read as follows:

(d) A nondebtor taxpayer who requests the ~~director~~ secretary to render his or her decision based on written documents is not entitled by law to any other administrative hearing before the ~~director's~~ secretary's rendering of his or her decision.

SECTION 3612. Arkansas Code § 26-36-320, is amended to read as follows:

26-36-320. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration is authorized to prescribe forms and make all rules which he or she deems necessary in order to effectuate the intent of this subchapter.

SECTION 3613. Arkansas Code § 26-36-321(a), concerning a setoff for debt to the Internal Revenue Service, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration may enter into an agreement with the Internal Revenue Service to setoff state income tax refunds to satisfy a past-due and legally enforceable debt to the Internal Revenue Service.

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SECTION 3614. Arkansas Code § 26-50-102(a)(1) and (2), concerning the requirement of a wholesaler to furnish a list of retailers, are amended to read as follows:

(a)(1) It shall be the duty of all persons, firms, and corporations, and all business establishments of every kind engaged in the wholesale business of selling merchandise in this state to furnish, upon the request in writing of the ~~Director~~ Secretary of the Department of Finance and Administration of this state, the names of any retailers or other persons to whom sales have been made, together with the amount of the sales for any given period, to be used by the ~~director~~ secretary or his or her agents for the purposes of collecting the gross receipts, use, or other tax as may be due this state, but for no other purpose.

(2) The information provided for shall be furnished to the ~~director~~ secretary within thirty (30) days.

SECTION 3615. Arkansas Code § 26-50-102(b), concerning the requirement of a wholesaler to furnish a list of retailers, is amended to read as follows:

(b) Any wholesale concern selling merchandise in this state failing and refusing to give the information in writing, as requested by the ~~director~~ secretary, is declared to be liable for any and all tax and penalty found to be due by the retailer for such period of time as is determined by the ~~director~~ secretary in event the tax is not collectible from the retailer.

SECTION 3616. Arkansas Code § 26-51-102(2), concerning the definition of "director" under the laws governing income taxes, is repealed.

~~(2) "Director" means the Director of the Department of Finance and Administration;~~

SECTION 3617. Arkansas Code § 26-51-104 is amended to read as follows:
26-51-104. Administration.

The ~~Director~~ Secretary of the Department of Finance and Administration shall administer and enforce the tax imposed by the Income Tax Act of 1929.

SECTION 3618. Arkansas Code § 26-51-105 is amended to read as follows:

1 26-51-105. Income tax director, officers, agents, and employees.

2 (a) The ~~Director~~ Secretary of the Department of Finance and
3 Administration, with the approval of the Governor, may appoint and remove a
4 person to be known as the "Income Tax Director" who, under the ~~Director~~
5 Secretary of the Department of Finance and Administration's supervision,
6 shall have the direction and control of the assessment and collection of the
7 taxes imposed by the Income Tax Act of 1929.

8 (b) The Income Tax Director, with the approval of the Governor, may
9 appoint such other officers, agents, deputies, clerks, and employees as he or
10 she may deem necessary, such appointees to have the duties and powers which
11 the ~~Director~~ Secretary of the Department of Finance and Administration may
12 from time to time prescribe.

13 (c) The salaries of all such officers, agents, and employees shall be
14 fixed by the ~~Director~~ Secretary of the Department of Finance and
15 Administration not to exceed the amounts appropriated by the General
16 Assembly; and the ~~Director~~ Secretary of the Department of Finance and
17 Administration and such officers, agents, and employees shall be allowed
18 reasonable and necessary traveling and other expenses incurred in the
19 performance of their duties not to exceed the amounts appropriated by the
20 General Assembly.

21 (d) The ~~Director~~ Secretary of the Department of Finance and
22 Administration may require such of the officers, agents, and employees as he
23 or she may designate to give bond for the faithful performance of their
24 duties and in such sum and with such sureties as he or she may determine, and
25 all premiums on these bonds shall be paid by the ~~Director~~ Secretary of the
26 Department of Finance and Administration out of moneys appropriated for the
27 purposes of the Income Tax Act of 1929.

28
29 SECTION 3619. Arkansas Code § 26-51-106 is amended to read as follows:

30 26-51-106. Publication of statistics.

31 The ~~Director~~ Secretary of the Department of Finance and Administration
32 shall prepare and publish annually statistics reasonably available, with
33 respect to the operation of the Income Tax Act of 1929, including amounts
34 collected, classifications of taxpayers, income, exemptions, and such other
35 facts as are deemed pertinent and valuable.

36

1 SECTION 3620. Arkansas Code § 26-51-201(d)(1), concerning taxes for
2 individuals, trusts, and estates, is amended to read as follows:

3 (d)(1) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall prescribe annually a table which shall apply in lieu of
5 the table contained in subsection (a) of this section with respect to each
6 succeeding taxable year. The ~~director~~ secretary shall increase the minimum
7 and maximum dollar amounts for each rate bracket, rounding to the nearest one
8 hundred dollars (\$100), for which a tax is imposed under the table by the
9 cost-of-living adjustment for each calendar year and by not changing the rate
10 applicable to any rate bracket as adjusted.

11
12 SECTION 3621. Arkansas Code § 26-51-201(d)(3), concerning taxes for
13 individuals, trusts, and estates, is amended to read as follows:

14 (3) The new tables, as adjusted annually, shall be used by the
15 ~~director~~ secretary in preparing the income tax withholding tables pursuant to
16 § 26-51-907.

17
18 SECTION 3622. The introductory language of Arkansas Code § 26-51-
19 201(e), concerning taxes for individuals, trusts, and estates, is amended to
20 read as follows:

21 (e) If the ~~director~~ secretary determines that federal law authorizes
22 the state to collect sales and use tax from sellers that do not have a
23 physical presence in the state, then after the first twelve (12) months of
24 collecting sales and use tax from sellers that do not have a physical
25 presence in the state, the ~~director~~ secretary shall:

26
27 SECTION 3623. Arkansas Code § 26-51-202(e)(3)(B), concerning taxes for
28 nonresidents, is amended to read as follows:

29 (B) Likewise, the provisions of subdivision (e)(1) of this
30 section shall not apply to corporate partners of an investment partnership
31 except as provided by regulations adopted by the ~~Director~~ Secretary of the
32 Department of Finance and Administration.

33
34 SECTION 3624. Arkansas Code § 26-51-206(c), concerning exceptions to
35 commercial ventures by churches, is amended to read as follows:

36 (c) The ~~Director~~ Secretary of the Department of Finance and

1 Administration is authorized to promulgate reasonable rules and regulations
2 to carry out the provisions of this section.

3

4 SECTION 3625. Arkansas Code § 26-51-401(b), concerning the tax year
5 and accounting methods, is amended to read as follows:

6 (b) A taxpayer must provide to the ~~Director~~ Secretary of the
7 Department of Finance and Administration a copy of any certification or
8 approval from the federal Internal Revenue Service authorizing the taxpayer
9 to change his or her accounting method.

10

11 SECTION 3626. Arkansas Code § 26-51-402(b), concerning the tax year
12 and a basis for determining liability, is amended to read as follows:

13 (b) A taxpayer must provide to the ~~Director~~ Secretary of the
14 Department of Finance and Administration a copy of any certification or
15 approval from the federal Internal Revenue Service authorizing the taxpayer
16 to change his or her income year.

17

18 SECTION 3627. Arkansas Code § 26-51-403(c)(2), concerning income in
19 regards to taxes, is amended to read as follows:

20 (2) If no such method of accounting has been employed or if the
21 method employed does not clearly reflect the income, the computation shall be
22 made upon such basis and in such manner as in the opinion of the ~~Director~~
23 Secretary of the Department of Finance and Administration does clearly
24 reflect the income.

25

26 SECTION 3628. Arkansas Code § 26-51-404(b)(7)(B), concerning gross
27 income, is amended to read as follows:

28 (B) When books of account do not clearly and accurately
29 reflect the income earned from sources without the state, the Arkansas income
30 shall be determined by processes or formulas of general apportionment
31 prescribed by the ~~Director~~ Secretary of the Department of Finance and
32 Administration and approved by the Governor;

33

34 SECTION 3629. Arkansas Code § 26-51-409(c)(1), concerning the adoption
35 of Federal Subchapter S, is amended to read as follows:

36 (c)(1) However, all nonresident shareholders of S corporations

1 receiving a prorated share of income, loss, deduction, or credit pursuant to
2 the provisions of this section must file a properly executed state income tax
3 return with the ~~director~~ Secretary of the Department of Finance and
4 Administration and remit the applicable state income tax due.

5
6 SECTION 3630. Arkansas Code § 26-51-410 is amended to read as follows:
7 26-51-410. Inventory.

8 Whenever, in the opinion of the ~~Director~~ Secretary of the Department of
9 Finance and Administration, the use of inventories is necessary in order to
10 clearly determine the income of any taxpayer, inventories shall be taken by
11 the taxpayer, upon such basis as the ~~director~~ secretary may prescribe,
12 conforming as nearly as may be possible to the best accounting practice in
13 the trade or business and most clearly reflecting the income.

14
15 SECTION 3631. Arkansas Code § 26-51-411(a)(2)(B), concerning gains,
16 losses, and sales of property, is amended to read as follows:

17 (B) If the facts necessary to determine such basis are
18 unknown to the donee, the ~~Director~~ Secretary of the Department of Finance and
19 Administration shall use the assessed valuation of the property;

20
21 SECTION 3632. Arkansas Code § 26-51-418(c), concerning deductions for
22 disabled children, is amended to read as follows:

23 (c) The ~~Director~~ Secretary of the Department of Finance and
24 Administration may adopt appropriate rules and regulations to carry out the
25 purpose and intent of this section and to prevent abuse of the deduction
26 provided for in this section.

27
28 SECTION 3633. Arkansas Code § 26-51-423(a)(3), concerning deductions
29 and expenses, is amended to read as follows:

30 (3) Travel Expenses. In determining travel expenses deductible
31 as a business expense in computing net income as provided under subdivision
32 (a)(1) of this section, the deduction for vehicle miles shall be determined
33 by the ~~Director~~ Secretary of the Department of Finance and Administration
34 under his or her regulatory authority in § 26-18-301; and

35
36 SECTION 3634. The introductory language of Arkansas Code § 26-51-

1 423(g)(1)(C), concerning deductions and expenses, is amended to read as
2 follows:

3 (C) The taxpayer and the ~~director~~ secretary enter into a
4 written agreement prior to the due date of the taxpayer's Arkansas income tax
5 return:

6
7 SECTION 3635. The introductory language of Arkansas Code § 26-51-
8 447(b), concerning deductions for tuition at post-secondary educational
9 institutions, is amended to read as follows:

10 (b) On or before November 30, 1998, of each year thereafter, the
11 ~~Director~~ Secretary of the Department of Finance and Administration shall
12 determine the weighted average tuition of post-secondary institutions of each
13 of the following classifications:

14
15 SECTION 3636. Arkansas Code § 26-51-457(c), concerning a claim of
16 right, is amended to read as follows:

17 (c) The ~~Director~~ Secretary of the Department of Finance and
18 Administration may promulgate rules to administer this section.

19
20 SECTION 3637. Arkansas Code § 26-51-458(d), concerning tax deductions
21 for volunteer firefighters, is amended to read as follows:

22 (d) The ~~Director~~ Secretary of the Department of Finance and
23 Administration may promulgate rules to implement this section.

24
25 SECTION 3638. Arkansas Code § 26-51-459(d), concerning a teacher's
26 classroom investment deductions, is amended to read as follows:

27 (d) The ~~Director~~ Secretary of the Department of Finance and
28 Administration shall promulgate rules to implement this section, including
29 without limitation a form for a taxpayer to use in claiming the deduction
30 provided for under this section.

31
32 SECTION 3639. Arkansas Code § 26-51-501(a)(2)(A)(ii), concerning
33 personal tax credits, is amended to read as follows:

34 (ii) Subdivision (a)(2)(A)(i) of this section shall
35 apply if the ~~Director~~ Secretary of the Department of Finance and
36 Administration continues to provide a tax return on which a husband and wife

1 can elect to file jointly or separately on the same return.

2
3 SECTION 3640. Arkansas Code § 26-51-501(e)(1)(A), concerning personal
4 tax credits, is amended to read as follows:

5 (e)(1)(A) Not later than July 15 of each calendar year, the ~~Director~~
6 Secretary of the Department of Finance and Administration shall increase the
7 adjusted individual credit and adjusted joint credit by the cost-of-living
8 adjustment for that current calendar year, rounding each amount to the
9 nearest dollar.

10
11 SECTION 3641. Arkansas Code § 26-51-501(e)(4), concerning personal tax
12 credits, is amended to read as follows:

13 (4) The ~~director~~ secretary shall not increase the adjusted
14 credit for any calendar year unless the conditions of subsection (f) of this
15 section are met.

16
17 SECTION 3642. Arkansas Code § 26-51-504(b), concerning income from
18 sources outside of Arkansas, is amended to read as follows:

19 (b) Before a resident of Arkansas may claim the credit allowed under
20 this section, he or she shall file with his or her income tax return any such
21 additional information as the Director of the State Income Tax Division or
22 the ~~Director~~ Secretary of the Department of Finance and Administration may by
23 regulation require showing in detail the amount of gross and net income
24 derived from property owned or business transacted without this state,
25 together with the amount of tax actually owed on the income to another state
26 or territory.

27
28 SECTION 3643. Arkansas Code § 26-51-513(a), concerning the Arkansas
29 historic rehabilitation income tax credit, is amended to read as follows:

30 (a) In addition to any income tax credit not related to the same
31 eligible property for which a taxpayer qualifies, the taxpayer is allowed an
32 income tax credit for the amount of the Arkansas historic rehabilitation
33 income tax credit allowed by the certification of completion issued by the
34 ~~Department of~~ Division Arkansas Heritage of the Department of Parks,
35 Heritage, and Tourism under the Arkansas Historic Rehabilitation Income Tax
36 Credit Act, § 26-51-2201 et seq.

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SECTION 3644. Arkansas Code § 26-51-513(d), concerning the Arkansas historic rehabilitation income tax credit, is amended to read as follows:

(d) The ~~Director~~ Secretary of the Department of Finance and Administration shall promulgate rules to implement this section.

SECTION 3645. Arkansas Code § 26-51-712 is amended to read as follows:
26-51-712. Average value of property.

The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the ~~Director~~ Secretary of the Department of Finance and Administration may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

SECTION 3646. The introductory language of Arkansas Code § 26-51-718, concerning the procedure when allocation does not fairly represent taxpayer's business activity, is amended to read as follows:

If the allocation and apportionment provisions of this Act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the ~~Director~~ Secretary of the Department of Finance and Administration may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

SECTION 3647. The introductory language of Arkansas Code § 26-51-801(a), concerning tax returns by individuals, is amended to read as follows:

(a) Every person owning property or doing business in the State of Arkansas shall file a return with the ~~Director~~ Secretary of the Department of Finance and Administration showing his or her gross income and the deductions or credits allowed by §§ 26-51-301, 26-51-302 [repealed], and 26-51-436 if he or she has a gross income of:

SECTION 3648. Arkansas Code § 26-51-801(e), concerning tax returns by individuals, is amended to read as follows:

(e) If a person is not required to file a return, the person must complete and submit to his or her employer a statement to that effect on forms approved by the ~~director~~ secretary in order to be exempt from the state

1 withholding tax.

2

3 SECTION 3649. The introductory language of Arkansas Code § 26-51-
4 802(c)(3), concerning partnership tax returns, is amended to read as follows:

5 (3) If the apportionment of income by a partnership having
6 income from both within and without Arkansas does not fairly represent the
7 extent of the partnership's business activity in this state, the partnership
8 may petition for or the ~~Director~~ Secretary of the Department of Finance and
9 Administration may require, in respect to all or any part of the taxpayer's
10 business activity, if reasonable:

11

12 SECTION 3650. Arkansas Code § 26-51-805(d)(1), concerning consolidated
13 corporate returns, is amended to read as follows:

14 (d)(1) The election to file an Arkansas consolidated corporate income
15 tax return for any income year shall require the filing of consolidated
16 corporate income tax returns for all subsequent income years so long as the
17 individual corporations remain members of the affiliated group unless the
18 ~~Director~~ Secretary of the Department of Finance and Administration consents
19 to the filing of separate returns by any members of the affiliated group.

20

21 SECTION 3651. Arkansas Code § 26-51-805(e), concerning consolidated
22 corporate returns, is amended to read as follows:

23 (e) In any case of two (2) or more corporations, whether or not
24 affiliated, owned, or controlled directly or indirectly by the same
25 interests, the ~~director~~ secretary may distribute, apportion, or allocate
26 gross income, deductions, credits, or allowances between or among such
27 corporations if he or she determines that the distribution, apportionment, or
28 allocation is necessary in order to prevent evasion of taxes or clearly to
29 reflect the income to any such corporation. This subsection is based upon the
30 concept of 26 U.S.C. § 482 as of January 1, 1989, as that section applies to
31 corporations.

32

33 SECTION 3652. Arkansas Code § 26-51-806(a)(1), concerning the time,
34 place, and forms for filing tax returns, is amended to read as follows:

35 (a)(1) Returns shall be in the form the ~~Director~~ Secretary of the
36 Department of Finance and Administration prescribes and shall be filed with

1 the ~~director's~~ secretary's office at Little Rock.

2
3 SECTION 3653. Arkansas Code § 26-51-806(b), concerning the time,
4 place, and forms for filing tax returns, is amended to read as follows:

5 (b)(1) The ~~director~~ secretary shall cause to be prepared blank forms
6 for the returns and shall cause them to be furnished upon application, but
7 failure to receive or secure the forms shall not relieve any taxpayer from
8 the obligation of making any return required by the Income Tax Act of 1929, §
9 26-51-101 et seq.

10 (2) As far as possible and practicable for filing returns for
11 income tax, the ~~director~~ secretary shall use the same form of blanks as is
12 used by the United States down to the net income part of the form.

13
14 SECTION 3654. Arkansas Code § 26-51-807(b)(1), concerning the filing
15 of returns and extensions of time, is amended to read as follows:

16 (b)(1) The ~~Director~~ Secretary of the Department of Finance and
17 Administration shall assess the taxpayer interest at the rate of ten percent
18 (10%) per annum on the amount of tax finally determined to be due.

19
20 SECTION 3655. Arkansas Code § 26-51-807(c) and (d), concerning the
21 filing of returns and extensions of time, are amended to read as follows:

22 (c) The ~~director~~ secretary may grant a taxpayer's written request to
23 extend the time for filing a corporation income tax return for a period of
24 time not to exceed sixty (60) days in addition to the extensions provided in
25 subsection (a) of this section that correspond to the extensions for filing a
26 federal return.

27 (d) The ~~director~~ secretary may promulgate regulations granting
28 automatic extensions of time to file income tax returns and information
29 returns without the taxpayer being required to submit a written application,
30 a copy of the federal request for extension, or a copy of the document
31 granting the federal extension if the ~~director~~ secretary determines that such
32 requirements are unnecessary for the administration of the income tax laws.

33
34 SECTION 3656. Arkansas Code § 26-51-808(a) and (b), concerning the
35 failure to file return or to include income and return or supplemental
36 return, are amended to read as follows:

1 (a) If the ~~Director~~ Secretary of the Department of Finance and
2 Administration shall be of the opinion that any taxpayer has failed to file a
3 return or failed to include in a return filed, either intentionally or
4 through error, items of taxable income, the ~~director~~ secretary may require
5 from the taxpayer a return or a supplementary return, under oath, in such
6 form as he or she shall prescribe, of all the items of income which the
7 taxpayer received during the year for which the return is made, whether or
8 not taxable under the provisions of the Income Tax Act of 1929.

9 (b) If from a supplementary return or otherwise, the ~~Director~~
10 Secretary of the Department of Finance and Administration finds that any
11 items of income taxable under the Income Tax Act of 1929 have been omitted
12 from the original return, he or she may require the items so omitted to be
13 disclosed to him or her, under oath of the taxpayer, and to be added to the
14 original return.

15
16 SECTION 3657. Arkansas Code § 26-51-809 is amended to read as follows:
17 26-51-809. Receipts for taxes.

18 The ~~Director~~ Secretary of the Department of Finance and Administration
19 shall give to any person making any payment a full written or printed receipt
20 stating the amount paid and the particular account for which the payment was
21 made and show for which installment it is paid.

22
23 SECTION 3658. Arkansas Code § 26-51-810(a), concerning forms provided
24 to tax practitioners, is amended to read as follows:

25 (a) The ~~Director~~ Secretary of the Department of Finance and
26 Administration may impose a postage fee sufficient to defray the cost of
27 postage for mailing out tax forms to tax practitioners.

28
29 SECTION 3659. Arkansas Code § 26-51-811(a), concerning information at
30 the source as to recipients of income, is amended to read as follows:

31 (a)(1) Every individual, partnership, limited liability company,
32 corporation, joint-stock company or association, or insurance company, being
33 a resident or having a place of business in this state; members of a
34 partnership or employees in whatever capacity acting, including lessees or
35 mortgagees, of real or personal property; members or managers of limited
36 liability companies or employees in whatever capacity acting; fiduciaries;

1 employers and all officers and employees of this state, or of any political
2 subdivision of this state, having the control, receipt, custody, disposal, or
3 payment of interest, rent, salaries, wages, premiums, annuities,
4 compensations, remunerations, emoluments, or other fixed or determinable
5 annual or periodical gains, profits, and income amounting to two thousand
6 five hundred dollars (\$2,500) or over, paid or payable during any year to any
7 taxpayer shall make complete returns under oath to the ~~Director~~ Secretary of
8 the Department of Finance and Administration, under such regulations and in
9 such form and manner and to such extent as may be prescribed by the ~~director~~
10 secretary with the approval of the Governor.

11 (2) Unless the income is so reported, the ~~director~~ secretary may
12 disallow such payments as deductions or credits in computing the tax of the
13 payer.
14

15 SECTION 3660. Arkansas Code § 26-51-812(a) and (b), concerning the
16 withholding of taxes at the source, are amended to read as follows:

17 (a) The ~~Director~~ Secretary of the Department of Finance and
18 Administration, whenever he or she deems it necessary to ensure compliance
19 with the provisions of the Income Tax Act of 1929, may, under rules and
20 regulations prescribed by him or her, require any individual, partnership,
21 limited liability company, corporation, joint-stock company, or association,
22 including lessees or mortgagors and employees of the state or of any
23 political subdivision of the state having control, receipt, custody,
24 disposal, or payment of interest, other than interest coupons payable to
25 bearer, rent, salaries, wages, premiums, compensation, remunerations,
26 emoluments, or other fixed or determinable annual or periodical gains,
27 profits, and income paid or payable to any taxpayer, to deduct and withhold
28 the tax due from the taxpayer and make return thereof and pay the tax to the
29 ~~director~~ secretary.

30 (b)(1) Upon the giving of notice by the ~~director~~ secretary to the
31 fiduciary of an estate or trust that the taxes due under the Income Tax Act
32 of 1929 from the grantor or beneficiary of an estate or trust on income of
33 the estate or trust, which is taxable to the grantor or beneficiary under the
34 provisions of § 26-51-201, have not been paid, the fiduciary shall withhold
35 the amount of the taxes from any payments or distribution due or to become
36 due from the estate or trust to the grantor or beneficiary and transmit the

1 amount so withheld to the ~~director~~ secretary.

2 (2) The notice required in this section is to be served on the
3 fiduciary or other person named above by registered mail, the letter to be
4 directed to the last known address of the fiduciary or other person so named
5 above, as the address appears in the records of the ~~director~~ secretary.

6 (3) Any person failing or refusing to deduct and withhold the
7 tax due from any taxpayer as required by the ~~director~~ secretary pursuant to
8 this section shall be personally liable for such tax, and the ~~director~~
9 secretary may proceed against him or her as provided for in § 27 [repealed]
10 of the Income Tax Act of 1929.

11

12 SECTION 3661. Arkansas Code § 26-51-813(b) and (c), concerning
13 reports, returns, confidentiality, and exceptions in regards to tax returns,
14 are amended to read as follows:

15 (b) The ~~Director~~ Secretary of the Department of Finance and
16 Administration may furnish a copy of any taxpayer's return to any official of
17 the United States or of any state having duties to perform in respect to the
18 assessment or collection of any tax imposed upon or measured by income if the
19 taxpayer is required by the laws of the United States or of the state to make
20 a return in the United States or that state and if the laws of the United
21 States or of the state provide substantially for the same secrecy in respect
22 to the information revealed by the taxpayer's return as is provided by
23 Arkansas laws.

24 (c) The ~~director~~ secretary and all other public officials and
25 employees shall keep and maintain the same secrecy in respect to any
26 information furnished by any department, commission, or official of the
27 United States or of any other state in respect to the income of any person as
28 is required by the Income Tax Act of 1929 in respect to information
29 concerning the affairs of the taxpayer under the Income Tax Act of 1929.

30

31 SECTION 3662. Arkansas Code § 26-51-813(e)(1), concerning reports,
32 returns, confidentiality, and exceptions in regards to tax returns, is
33 amended to read as follows:

34 (e)(1) Nothing in this section shall be construed to prohibit the
35 Department of Finance and Administration from disclosing from any return or
36 other record maintained by the ~~director~~ secretary to the Office of Child

1 Support Enforcement ~~of the Revenue Division of the Department of Finance and~~
2 ~~Administration~~ the last known address or whereabouts or the last known
3 employer of any deserting parent from whom the office is charged with
4 collecting child support.

5
6 SECTION 3663. Arkansas Code § 26-51-813(f)(1), concerning reports,
7 returns, confidentiality, and exceptions in regards to tax returns, is
8 amended to read as follows:

9 (f)(1) Nothing in this section shall be construed to prohibit the
10 Department of Finance and Administration from disclosing from any return or
11 other record maintained by the ~~director~~ secretary to the Student Loan
12 Guarantee Foundation of Arkansas, the last known address or whereabouts or
13 the last known employer of any person from whom the Student Loan Guarantee
14 Foundation of Arkansas is charged with collecting a student loan
15 indebtedness.

16
17 SECTION 3664. Arkansas Code § 26-51-813(g), concerning reports,
18 returns, confidentiality, and exceptions in regards to tax returns, is
19 amended to read as follows:

20 (g)(1) Nothing in this section shall be construed to prohibit the
21 Department of Finance and Administration from disclosing from any return or
22 other record maintained by the ~~director~~ secretary to the ~~Department~~ Division
23 of Higher Education or any Arkansas public institution of higher education
24 the last known address or whereabouts or the last known employer of any
25 person from whom these institutions are charged with collecting student
26 indebtedness.

27 (2) In providing this information, the Department of Finance and
28 Administration shall not allow the ~~Department~~ Division of Higher Education or
29 the Arkansas public institutions of higher education to examine the tax
30 return.

31
32 SECTION 3665. Arkansas Code § 26-51-814 is amended to read as follows:

33 26-51-814. Reports and returns – Preservation and destruction.

34 All reports and returns required by the Income Tax Act of 1929 shall be
35 preserved for three (3) years and thereafter until the ~~Director~~ Secretary of
36 the Department of Finance and Administration orders them destroyed.

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SECTION 3666. Arkansas Code § 26-51-816(a), concerning a signature on a prepared income tax form, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration may require the originator, transmitter, or paid preparer of an electronically filed Arkansas income tax return to retain the signature document, form AR8453, as well as all other forms and schedules which support the return.

SECTION 3667. Arkansas Code § 26-51-816(c) and (d), concerning a signature on a prepared income tax form, are amended to read as follows:

(c) The signature document and all supporting documents for an electronically filed Arkansas return must be made available for inspection by the ~~director~~ secretary upon the ~~director's~~ secretary's request.

(d) The ~~director~~ secretary may promulgate rules and regulations for the proper enforcement of this section.

SECTION 3668. Arkansas Code § 26-51-902(3), concerning the definition of "director" under the Arkansas Income Tax Withholding Act, is repealed.

~~(3) "Director" means the Director of the Department of Finance and Administration of the State of Arkansas;~~

SECTION 3669. Arkansas Code § 26-51-904 is amended to read as follows:
26-51-904. Rules and regulations – Forms.

The ~~Director~~ Secretary of the Department of Finance and Administration shall make and prescribe such rules, regulations, and forms as he or she shall deem necessary to carry out the purposes of this subchapter.

SECTION 3670. Arkansas Code § 26-51-905 is amended to read as follows:
26-51-905. Withholding of tax.

(a)(1) Every employer making payments of wages to employees shall deduct and withhold from the employees' wages an amount determined from withholding tables promulgated by the ~~Director~~ Secretary of the Department of Finance and Administration and furnished to the employer.

(2) The full amount deducted and withheld from any employee's wages during the income year shall be credited against the tax liability of

1 the employee under the Income Tax Act of 1929, § 26-51-101 et seq., for that
2 year.

3 (b)(1) Notwithstanding the provisions of subsection (a) of this
4 section, every employer who withholds less than one thousand dollars (\$1,000)
5 for a full year's withholding shall report and remit annually on a date
6 specified by the ~~director~~ secretary any amounts so withheld by the employer.

7 (2) An employer shall be advised by the ~~director~~ secretary of
8 the employer's classification and shall report as classified until such time
9 as the employer advises the ~~director~~ secretary in writing that the employer
10 no longer has employees or the employer is closing the business.

11 (3) However, it shall be the duty of the employer to report to
12 the ~~director~~ secretary at the end of each income year all wages paid to any
13 such employees on the same forms provided in this subchapter for making
14 employer annual withholding statements in order that the ~~director~~ secretary
15 may determine the tax liability, if any, of those employees during that
16 income year.

17

18 SECTION 3671. Arkansas Code § 26-51-906 is amended to read as follows:
19 26-51-906. Withholding state income taxes of federal employees by
20 federal agencies.

21 The ~~Director~~ Secretary of the Department of Finance and Administration
22 is authorized and directed to enter into an agreement with the United States
23 Secretary of the Treasury ~~of the United States~~ with respect to withholding of
24 income tax as provided by this subchapter and pursuant to ~~an~~ Pub. Law L. No.
25 587 of 1952 and to Executive Order No. 10407 of November 7, 1952.

26

27 SECTION 3672. Arkansas Code § 26-51-907 is amended to read as follows:
28 26-51-907. Withholding tables.

29 The ~~Director~~ Secretary of the Department of Finance and Administration
30 shall prepare and furnish to employers state income tax withholding tables
31 based on the current income tax laws of the state, taking into consideration
32 the various deductions and personal tax credits allowed therein. The tables
33 shall be designed to provide for a yearly aggregate withholding that will
34 approximate the state income tax liability of the average taxpayer with the
35 various personal tax credits.

36

1 SECTION 3673. Arkansas Code § 26-51-908 is amended to read as follows:
2 26-51-908. Employer's return and payment of taxes withheld.

3 (a)(1) Every employer required to deduct and withhold from wages under
4 this subchapter shall file a withholding return on an annual basis as
5 prescribed by the ~~Director~~ Secretary of the Department of Finance and
6 Administration and annually pay over to the ~~director~~ secretary the full
7 amount required to be deducted and withheld from the wages of the employees
8 if the amount is less than one thousand dollars (\$1,000) per year.

9 (2) Every employer required to deduct and withhold from wages
10 under this subchapter shall file a withholding return on a monthly basis as
11 prescribed by the ~~director~~ secretary and pay over on a monthly basis to the
12 ~~director~~ secretary the full amount required to be deducted and withheld from
13 the wages of the employees if the amount is one thousand dollars (\$1,000) or
14 more per year.

15 (3) However, the ~~director~~ secretary may provide by regulation
16 that every such employer shall on or before the fifteenth day of each month
17 pay over to the ~~director~~ secretary or a depository designated by the ~~director~~
18 secretary the amount required to be deducted and withheld by the employer for
19 the preceding month if the amount is one hundred dollars (\$100) or more.

20 (b)(1) Notwithstanding any other provision of this section, all
21 transient employers shall make return and pay over to the ~~director~~ secretary,
22 on a monthly basis, the full amounts required to be deducted and withheld
23 from the wages by the transient employer for the calendar month.

24 (2) The returns and payments to the ~~director~~ secretary by
25 transient employers shall be made on or before the last day of the month
26 following the month for which the amounts were deducted and withheld from the
27 wages of the transient employer's employees.

28 (c)(1) Notwithstanding any other provision of this section, all
29 employers engaged in any business which is seasonal shall make return and pay
30 over to the ~~director~~ secretary on a monthly basis the amounts required to be
31 deducted and withheld from the wages by the employer for the calendar month.

32 (2) Returns and payments to the ~~director~~ secretary by employers
33 engaged in seasonal business shall be made on or before the last day of the
34 month following the month for which those amounts were deducted and withheld
35 from the wages of the employer's employees.

36 (d) When the ~~director~~ secretary has justifiable reason to believe that

1 the collection of funds required to be withheld by any employer as provided
2 in this subchapter is in jeopardy, the ~~director~~ secretary may require the
3 employer to file a return and pay the amounts required to be withheld at any
4 time.

5 (e) Every employer who fails to withhold or pay to the ~~director~~
6 secretary any sums required by this subchapter to be withheld and paid shall
7 be personally and individually liable for the sums except as provided in §
8 26-51-916.

9 (f) Any sum withheld in accordance with the provisions of this
10 subchapter shall be deemed to be held in trust for the State of Arkansas and
11 shall be recorded by the employer in a ledger account so as to clearly
12 indicate the amount of tax withheld and that the amount is the property of
13 the State of Arkansas.

14 (g)(1) When an employer has become liable to an annual return of
15 withholding, the employer must continue to file an annual report, even though
16 no tax has been withheld, until such time as the employer notifies the
17 ~~director~~ secretary, in writing, that the employer no longer has employees or
18 that the employer is no longer liable for an annual return.

19 (2) When an employer has become liable to a monthly return of
20 withholding, the employer must continue to file a monthly report, even though
21 no tax has been withheld until such time as the employer notifies the
22 ~~director~~ secretary, in writing, that the employer no longer has employees or
23 that the employer is no longer liable for monthly returns.

24 (h)(1) For any withholding tax reporting period, a company or any
25 other business enterprise which provides the service of reporting and
26 remitting withholding tax on the wages paid to Arkansas employees by other
27 employers shall remit all such withholding taxes to the ~~director~~ secretary by
28 electronic funds transfer, as more particularly described in § 26-19-105.

29 (2) However, a company or business which provides tax reporting
30 and remitting services shall not be required to remit withholding taxes by
31 electronic funds transfer if the company or business provides those services
32 for fewer than one hundred (100) Arkansas employers.

33 (3) As used in this subsection, "Arkansas employer" means any
34 employer required by Arkansas law to withhold, report, and remit Arkansas
35 income tax on the wages, salary, or other compensation paid to its employees
36 within this state.

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SECTION 3674. Arkansas Code § 26-51-909(b)(1) and (2), concerning annual withholding statements, are amended to read as follows:

(b)(1) The annual statement of withholding shall be in the form prescribed by the ~~Director~~ Secretary of the Department of Finance and Administration.

(2)(A) The statement from the employer shall be filed with the ~~director~~ secretary on or before January 31 following the close of the income year.

(B) For tax years beginning on or after January 1, 2006, an employer who has two hundred fifty (250) or more employees during the employer's income year shall file the statement either:

- (i) Electronically;
- (ii) On magnetic media; or
- (iii) In any other machine-readable form approved by the ~~director~~ secretary.

SECTION 3675. Arkansas Code § 26-51-909(c)(5), concerning annual withholding statements, is amended to read as follows:

(5) Such other information as the ~~director~~ secretary shall require by rule or regulation.

SECTION 3676. Arkansas Code § 26-51-910 is amended to read as follows:
26-51-910. Refunds to employer for overpayment.

Any employer who makes an overpayment of the tax required to be remitted to the ~~Director~~ Secretary of the Department of Finance and Administration by § 26-51-908 may file application with the ~~director~~ secretary, on a form prescribed by the ~~director~~ secretary, to have the amount of such overpayment refunded to him or her or to have the amount credited against the payment which he or she is required to make for a subsequent quarterly period. However, the refund or credit shall be allowed only to the extent that the amount of the overpayment was not withheld under § 26-51-905 by the employer.

SECTION 3677. Arkansas Code § 26-51-911(a) and (b), concerning the declaration of estimated tax, are amended to read as follows:

1 (a) Every taxpayer subject to the tax levied by the Income Tax Act of
2 1929, § 26-51-101 et seq., shall make and file with the ~~Director~~ Secretary of
3 the Department of Finance and Administration a declaration of the estimated
4 tax for the income year if the taxpayer can reasonably expect the estimated
5 tax to be more than one thousand dollars (\$1,000).

6 (b) The declaration of estimated tax shall be made on such forms and
7 shall include such information as the ~~director~~ secretary shall prescribe.
8

9 SECTION 3678. Arkansas Code § 26-51-911(c)(1), concerning the
10 declaration of estimated tax, is amended to read as follows:

11 (c)(1) The declaration shall be filed with the ~~director~~ secretary on
12 or before the fifteenth day of the fourth month of the income year of the
13 taxpayer.
14

15 SECTION 3679. Arkansas Code § 26-51-911(f), concerning the declaration
16 of estimated tax, is amended to read as follows:

17 (f) A taxpayer may file amendments to a declaration at such times,
18 under such rules and regulations, and in such form as the ~~director~~ secretary
19 shall prescribe.
20

21 SECTION 3680. The introductory language of Arkansas Code § 26-51-
22 913(a), concerning payments of estimated tax, is amended to read as follows:

23 (a) The estimated tax as shown on the declaration filed with the
24 ~~Director~~ Secretary of the Department of Finance and Administration shall be
25 paid as follows:
26

27 SECTION 3681. Arkansas Code § 26-51-915 is amended to read as follows:
28 26-51-915. Deposits of payments – Refunds.

29 (a) All payments received by the ~~Director~~ Secretary of the Department
30 of Finance and Administration from employers for taxes withheld from
31 employees and all payments received by the ~~director~~ secretary from taxpayers
32 as herein provided shall be deposited into the State Treasury as general
33 revenues to the credit of the State Apportionment Fund.

34 (b) Based upon information provided by the ~~director~~ secretary, the
35 Chief Fiscal Officer of the State shall determine the amount estimated to be
36 necessary to meet any refunds of state income taxes under the provisions of

1 this subchapter, and, upon certification of the Chief Fiscal Officer of the
2 State, the Treasurer of State shall transfer from any general revenues in the
3 General Revenue Allotment Reserve Fund the amount so certified to the
4 Individual Income Tax Withholding Fund, from which the ~~director~~ secretary is
5 authorized to make refunds as provided for by law and by this subchapter.

6 (c) All refund warrants drawn against the Individual Income Tax
7 Withholding Fund which are not presented for payment within one (1) year of
8 issuance shall be void.

9 (d) Neither the ~~director~~ secretary nor any member or employee of the
10 Revenue Division of the Department of Finance and Administration shall be
11 held personally liable for making any refund by reason of a fraudulent
12 withholding certificate being used as a basis for the refund.

13
14 SECTION 3682. Arkansas Code § 26-51-917 is amended to read as follows:

15 26-51-917. Employer's withholding account number.

16 Every employer, as defined in this subchapter, shall make application
17 to the Revenue Division of the Department of Finance and Administration for
18 and be assigned an employer's withholding account number. The account number
19 assigned to an employer shall be used by the employer on all returns,
20 reports, and inquiries addressed to the ~~Director~~ Secretary of the Department
21 of Finance and Administration or the division.

22
23 SECTION 3683. Arkansas Code § 26-51-919(b)(1)(A)(ii), concerning pass-
24 through entities, is amended to read as follows:

25 (ii) The pass-through entity is liable to the
26 ~~Director~~ Secretary of the Department of Finance and Administration for the
27 payment of the tax required to be withheld and is not liable to the member
28 for the amount withheld and paid to the ~~director~~ secretary.

29
30 SECTION 3684. Arkansas Code § 26-51-919(b)(1)(B)(ii), concerning pass-
31 through entities, is amended to read as follows:

32 (ii) The ~~director~~ secretary shall apply the tax
33 withheld and paid by a pass-through entity on distributions to a lower-tier
34 pass-through entity to the withholding required of that lower-tier pass-
35 through entity.

1 SECTION 3685. Arkansas Code § 26-51-919(b)(2), concerning pass-through
2 entities, is amended to read as follows:

3 (2)(A) On or before the due date for the pass-through entity's
4 composite income tax return described in subsection (d) of this section, a
5 pass-through entity shall file an annual return with the ~~director~~ secretary
6 showing the total amount of income distributed or credited to its nonresident
7 members and the amount of tax withheld and shall remit the amount of tax
8 withheld.

9 (B) The annual return shall be in an electronic format
10 prescribed by the ~~director~~ secretary.

11
12 SECTION 3686. Arkansas Code § 26-51-919(c)(2), concerning pass-through
13 entities, is amended to read as follows:

14 (2) The ~~director~~ secretary has determined that the nonresident
15 member's income is not subject to withholding;

16
17 SECTION 3687. Arkansas Code § 26-51-919(c)(4)(B), concerning pass-
18 through entities, is amended to read as follows:

19 (B) Has agreed to file an annual information return
20 reporting the name, address, and taxpayer identification number of each
21 member with an annual Arkansas income greater than five hundred dollars
22 (\$500) along with any other information requested by the ~~director~~ secretary;

23
24 SECTION 3688. Arkansas Code § 26-51-919(c)(5)(A), concerning pass-
25 through entities, is amended to read as follows:

26 (5)(A) The pass-through entity has filed with the ~~director~~
27 secretary on forms prescribed by the ~~director~~ secretary the nonresident
28 member's signed agreement to timely file an Arkansas corporation, nonresident
29 individual, or trust income tax return, to pay any tax due on the return, and
30 to be subject to the jurisdiction of the Department of Finance and
31 Administration in the courts of this state for the purpose of determining and
32 collecting any Arkansas income tax together with interest and penalties owed
33 by the nonresident member.

34
35 SECTION 3689. Arkansas Code § 26-51-919(d)(4), concerning pass-through
36 entities, is amended to read as follows:

1 (4) On or before the fifteenth day of the fourth month following
2 the end of the pass-through entity's tax year, a pass-through entity shall
3 file an annual composite return with the ~~director~~ secretary showing the total
4 amount of income distributed or credited to its nonresident members and the
5 amount of tax withheld and shall remit the tax due on the composite income
6 tax return.

7
8 SECTION 3690. Arkansas Code § 26-51-919(e), concerning pass-through
9 entities, is amended to read as follows:

10 (e) The ~~director~~ secretary may promulgate rules necessary to
11 administer this section.

12
13 SECTION 3691. Arkansas Code § 26-51-1104(b) and (c), concerning the
14 requirement of documentation to claim a tax credit for the donation or sale
15 of equipment to educational institutions, are amended to read as follows:

16 (b) To claim the credit granted by § 26-51-1102, the taxpayer must
17 show that the Division of Science and Technology of the Arkansas Economic
18 Development Commission and the ~~Department~~ Division of Higher Education have
19 approved the qualified research expenditure as a part of a qualified research
20 program.

21 (c) Copies of each of the above documents shall be filed by the
22 taxpayer with his or her return as an attachment to the form prescribed by
23 the ~~Director~~ Secretary of the Department of Finance and Administration.

24
25 SECTION 3692. Arkansas Code § 26-51-1105 is amended to read as
26 follows:

27 26-51-1105. Rules and regulations.

28 The ~~Director~~ Secretary of the Department of Finance and Administration,
29 the Director of the ~~Department~~ Division of Higher Education, the Director of
30 the ~~Department~~ Division of Career and Technical Education, ~~the Director of~~
31 ~~the Department of Workforce Education~~, and the ~~Executive~~ Director of the
32 Arkansas Economic Development Commission shall promulgate such reasonable
33 rules as they shall deem necessary and appropriate to carry out the purposes
34 of this subchapter.

35
36 SECTION 3693. Arkansas Code § 26-51-1306 is amended to read as

1 follows:

2 26-51-1306. Withholding return and payment for racing winnings.

3 Every franchise holder required to deduct and withhold income tax from
4 racing winnings under this subchapter shall file, within sixty (60) days
5 after the termination of its racing season, a withholding return as
6 prescribed by the ~~Director~~ Secretary of the Department of Finance and
7 Administration and pay over to the ~~director~~ secretary the full amount
8 required to be deducted and withheld from the racing winnings by the
9 franchise holder for the income year.

10

11 SECTION 3694. Arkansas Code § 26-51-1307(b)(1), concerning the annual
12 statement of withholdings for racing winnings, is amended to read as follows:

13 (b)(1) The annual statement shall be in the form prescribed by the
14 ~~Director~~ Secretary of the Department of Finance and Administration and shall
15 be filed with the ~~director~~ secretary.

16

17 SECTION 3695. Arkansas Code § 26-51-1307(c)(5), concerning the annual
18 statement of withholdings for racing winnings, is amended to read as follows:

19 (5) Such other information as the ~~director~~ secretary shall
20 require by rule or regulation.

21

22 SECTION 3696. Arkansas Code § 26-51-1308(a), concerning the duties of
23 franchise holders and payees, is amended to read as follows:

24 (a) Every holder of a franchise to conduct dog racing, horse racing,
25 or electronic games of skill who fails to withhold or pay to the ~~Director~~
26 Secretary of the Department of Finance and Administration any sums required
27 by this subchapter to be withheld and paid shall be personally and
28 individually liable therefor. Any sum or sums withheld in accordance with the
29 provisions of this subchapter shall be deemed to be held in trust for the
30 State of Arkansas and shall be recorded by the franchise holder in a ledger
31 account so as to clearly indicate the amount of tax withheld and that the
32 amount is the property of the State of Arkansas.

33

34 SECTION 3697. Arkansas Code § 26-51-1309(b)(2), concerning the taxing
35 of game winnings, withholdings, and remittance, is amended to read as
36 follows:

1 (2) Remit the tax to the ~~Director~~ Secretary of the Department of
2 Finance and Administration as provided in § 26-51-1310 and as prescribed by
3 rules promulgated by the ~~director~~ secretary.
4

5 SECTION 3698. Arkansas Code § 26-51-1310(a), concerning withholdings,
6 reporting, payment, and electronic games of skill, is amended to read as
7 follows:

8 (a) The holder of a franchise to conduct electronic games of skill in
9 this state shall register to withhold the gaming winnings tax under § 26-51-
10 1309 from winnings from electronic games of skill in the manner prescribed by
11 the ~~Director~~ Secretary of the Department of Finance and Administration.
12

13 SECTION 3699. The introductory language of Arkansas Code § 26-51-
14 1401(d), concerning the apportionment allocation of net income, is amended to
15 read as follows:

16 (d) If the allocation and apportionment provisions of this subchapter
17 do not fairly represent the extent of the taxpayer's business activity in
18 this state, the taxpayer may petition for, or the ~~Director~~ Secretary of the
19 Department of Finance and Administration may require, in respect to all or
20 any part of the taxpayer's business activity, if reasonable:
21

22 SECTION 3700. Arkansas Code § 26-51-1402(8)(J)(iii), concerning the
23 apportionment and allocation of net income of financial institutions, is
24 amended to read as follows:

25 (iii) The ~~Director~~ Secretary of the Department of
26 Finance and Administration is authorized to exclude any person from the
27 application of this subdivision (8)(J) upon such person's proving, by clear
28 and convincing evidence, that the income-producing activity of such person is
29 not in substantial competition with those persons described in subdivisions
30 (8)(B)-(G) and (I) of this section;
31

32 SECTION 3701. Arkansas Code § 26-51-1403(m)(4), concerning the
33 receipts factor, is amended to read as follows:

34 (4) If the taxpayer elects or is required by the ~~Director~~
35 Secretary of the Department of Finance and Administration to use the method
36 set forth in subdivision (m)(3) of this section, it shall use this method on

1 all subsequent returns unless the taxpayer receives prior permission from the
2 ~~director~~ secretary to use, or the ~~director~~ secretary requires, a different
3 method.

4
5 SECTION 3702 Arkansas Code § 26-51-1404(d)(2), concerning the property
6 factor, is amended to read as follows:

7 (2) If averaging on this basis does not properly reflect average
8 value, the ~~Director~~ Secretary of the Department of Finance and Administration
9 may require averaging on a more frequent basis.

10
11 SECTION 3703. Arkansas Code § 26-51-1404(d)(4), concerning the
12 property factor, is amended to read as follows:

13 (4) When averaging on a more frequent basis is required by the
14 ~~Director~~ Secretary of the Department of Finance and Administration or is
15 elected by the taxpayer, the same method of valuation must be used
16 consistently by the taxpayer with respect to property within and without this
17 state and on all subsequent returns unless the taxpayer receives prior
18 permission from the ~~director~~ secretary or the ~~director~~ secretary requires a
19 different method of determining average value.

20
21 SECTION 3704. Arkansas Code § 26-51-1404(e)(2), concerning the
22 property factor, is amended to read as follows:

23 (2)(A) Where the use of the general method described in this
24 subsection results in inaccurate valuations of rented property, any other
25 method which properly reflects the value may be adopted by the ~~director~~
26 secretary or by the taxpayer when approved in writing by the ~~director~~
27 secretary.

28 (B) Once approved, such other method of valuation must be
29 used on all subsequent returns unless the taxpayer receives prior approval
30 from the ~~director~~ secretary or unless the ~~director~~ secretary requires a
31 different method of valuation.

32
33 SECTION 3705. Arkansas Code § 26-51-1404(g)(2)(B), concerning the
34 property factor, is amended to read as follows:

35 (B) The presumption of proper assignment of a loan
36 provided in subdivisions (g)(1)(B) and (g)(2)(A) of this section may be

1 rebutted upon a showing by the ~~director~~ secretary, supported by a
2 preponderance of the evidence, that the preponderance of substantive contacts
3 regarding such loan did not occur at the regular place of business to which
4 it was assigned on the taxpayer's records.

5
6 SECTION 3706. Arkansas Code § 26-51-1701(2), concerning the definition
7 of "director" under the low income housing tax credit, is repealed.

8 ~~(2) "Director" means the Director of the Department of Finance~~
9 ~~and Administration;~~

10
11 SECTION 3707. Arkansas Code § 26-51-1702(d) and (e), concerning the
12 allowance and calculation of tax credit, are amended to read as follows:

13 (d) All or any portion of the Arkansas low income housing tax credits
14 may be allocated to parties who are eligible under the provisions of
15 subsection (a) of this section. An owner of a qualified project shall certify
16 to the ~~Director~~ Secretary of the Department of Finance and Administration the
17 amount of the Arkansas low income housing tax credit allocated to each
18 taxpayer.

19 (e) In the event that recapture of Arkansas low income housing tax
20 credits is required pursuant to § 26-51-1703(b) of this subchapter, any
21 statement submitted to the ~~director~~ secretary as provided in this section
22 shall include the proportion of the Arkansas low income housing tax credit
23 required to be recaptured, the identity of each taxpayer subject to the
24 recapture and the amount of Arkansas low income housing tax credit previously
25 allocated to such taxpayer.

26
27 SECTION 3708. Arkansas Code § 26-51-1704(b) and (c), concerning the
28 sale, assignment, and transfer of tax credit, are amended to read as follows:

29 (b) An owner or transferee desiring to make a transfer, sale, or
30 assignment as described in subsection (a) of this section shall submit to the
31 ~~Director~~ Secretary of the Department of Finance and Administration a
32 statement which describes the amount of Arkansas low income housing tax
33 credit for which transfer, sale, or assignment of Arkansas low income housing
34 tax credit is eligible. The owner shall provide to the ~~director~~ secretary
35 such information as is specified by the Department of Finance and
36 Administration in regulations so that the Arkansas low income housing tax

1 credit may be properly allocated.

2 (c) In the event that recapture of Arkansas low income housing tax
3 credit is required pursuant to § 26-51-1703(b) of this subchapter, the
4 statements submitted to the ~~director~~ secretary as provided in this section
5 shall include the proportion of the Arkansas low income housing tax credit
6 required to be recaptured, the identity of each transferee subject to
7 recapture, and the amount of Arkansas low income housing tax credit
8 previously transferred to such transferee and such other information as is
9 specified by the department in regulations.

10

11 SECTION 3709. Arkansas Code § 26-51-1705 is amended to read as
12 follows:

13 26-51-1705. Rules and regulations.

14 The ~~Director~~ Secretary of the Department of Finance and Administration
15 and the Arkansas Development Finance Authority shall promulgate rules and
16 regulations necessary to administer the provisions of this subchapter. No
17 rule or portion of a rule promulgated under the authority of this section
18 shall become effective until it has been approved by the ~~director~~ secretary
19 in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
20 seq.

21

22 SECTION 3710. Arkansas Code § 26-51-2005(b), concerning qualification
23 and determination of credit, is amended to read as follows:

24 (b)(1) Upon determination by the Director of the Arkansas Economic
25 Development Commission that the project qualifies for credit under this
26 subchapter, the Director of the Arkansas Economic Development Commission
27 shall certify to the ~~Director~~ Secretary of the Department of Finance and
28 Administration that the project is qualified and transmit with his or her
29 certification the documents upon which the certification was based or copies.

30 (2) Upon receipt by the ~~Director~~ Secretary of the Department of
31 Finance and Administration of a certification from the Director of the
32 Arkansas Economic Development Commission that an eligible business is
33 entitled to credit under this subchapter, the ~~Director~~ Secretary of the
34 Department of Finance and Administration shall provide forms to the eligible
35 business on which to claim the credit.

36

1 SECTION 3711. Arkansas Code § 26-51-2005(c)(1), concerning
2 qualification and determination of credit, is amended to read as follows:

3 (c)(1) At the end of the calendar year in which the application was
4 made to the Director of the Arkansas Economic Development Commission and at
5 the end of each calendar year thereafter until the project is completed, the
6 eligible business shall certify on the form provided by the ~~Director~~
7 Secretary of the Department of Finance and Administration the amount of
8 expenditures on the project during the preceding calendar year.

9
10 SECTION 3712. Arkansas Code § 26-51-2005(c)(2)(A), concerning
11 qualification and determination of credit, is amended to read as follows:

12 (2)(A) Upon receipt of the form certifying expenditures, the
13 ~~Director~~ Secretary of the Department of Finance and Administration shall
14 determine the amount due as a credit for the preceding calendar year and
15 issue a memorandum of credit to the eligible business in the amount of seven
16 percent (7%) of the expenditure.

17
18 SECTION 3713. Arkansas Code § 26-51-2005(c)(2)(B)(iii) and (iv),
19 concerning qualification and determination of credit, are amended to read as
20 follows:

21 (iii) The ~~Director~~ Secretary of the Department of
22 Finance and Administration may require proof of these expenditures.

23 (iv) The ~~Director~~ Secretary of the Department of
24 Finance and Administration may examine those records necessary and specific
25 to the project to determine credit eligibility. Any credits disallowed shall
26 be subject to payment in full.

27
28 SECTION 3714. Arkansas Code § 26-51-2303(b), concerning the
29 administration of the Arkansas Tax Procedure Act, is amended to read as
30 follows:

31 (b) The ~~Director~~ Secretary of the Department of Finance and
32 Administration shall make and prescribe such rules, regulations, and forms as
33 he or she deems necessary to administer this subchapter.

34
35 SECTION 3715. Arkansas Code § 26-51-2305(a), concerning lottery
36 withholdings, reporting, and payment, is amended to read as follows:

1 (a) A claim center shall register to withhold income tax under § 26-
2 51-2304 from lottery winnings in the manner prescribed by the ~~Director~~
3 Secretary of the Department of Finance and Administration.
4

5 SECTION 3716. Arkansas Code § 26-51-2305(f)(2)(E), concerning lottery
6 withholdings, reporting, and payment, is amended to read as follows:

7 (E) Such other information as the ~~director~~ secretary shall
8 require by rule.
9

10 SECTION 3717. Arkansas Code § 26-51-2411(a)(1), concerning the
11 enforcement and deposit of fees, is amended to read as follows:

12 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
13 Administration may make rules and prescribe forms for a taxpayer to claim the
14 investment tax credit provided by this subchapter and for the proper
15 enforcement of the claim.
16

17 SECTION 3718. Arkansas Code § 26-51-2411(d), concerning the
18 enforcement and deposit of fees, is amended to read as follows:

19 (d) The ~~director~~ secretary shall demand the repayment of any
20 investment tax credits taken in excess of the investment tax credit allowed
21 by this subchapter.
22

23 SECTION 3719. Arkansas Code § 26-51-2502(c) and (d), concerning the
24 Disaster Relief Income Tax Check-Off Program, are amended to read as follows:

25 (c) The ~~Director~~ Secretary of the Department of Finance and
26 Administration shall have the authority to promulgate all rules and
27 regulations and all income tax forms, returns, and schedules necessary to
28 carry out this program.

29 (d) The ~~Director~~ Secretary of the Department of Finance and
30 Administration is authorized to accept any gifts, grants, bequests, devises,
31 and donations made to the State of Arkansas for the purposes of funding the
32 Arkansas Disaster Relief Program. The ~~director~~ secretary shall deposit any of
33 these gifts, grants, bequests, devises, and donations so received into the
34 Arkansas Disaster Relief Program Trust Fund. These gifts, grants, bequests,
35 devises, and donations shall be used together with any other funds
36 appropriated for funding the program provided for in this section. ~~All gifts,~~

1 ~~grants, bequests, devises, and donations shall be deposited, disbursed,~~
2 ~~budgeted, and regulated under the procedures prescribed by the Chief Fiscal~~
3 ~~Officer of the State under § 19-4-807 [repealed].~~

4
5 SECTION 3720. Arkansas Code § 26-51-2502(e)(1)(A), concerning the
6 Disaster Relief Income Tax Check-Off Program, is amended to read as follows:

7 (e)(1)(A) There is created on the books of the Treasurer of State, the
8 Auditor of State, and the Chief Fiscal Officer of the State an Arkansas
9 Disaster Relief Program Trust Fund to be used by the ~~Arkansas Department~~
10 Division of Emergency Management for disaster relief.

11
12 SECTION 3721. Arkansas Code § 26-51-2502(f), concerning the Disaster
13 Relief Income Tax Check-Off Program, is amended to read as follows:

14 (f)(1) The Revenue Division of the Department of Finance and
15 Administration may establish any rule to effectively carry out the revenue
16 producing provisions of this section.

17 (2) The ~~Director~~ Secretary of the Department of Finance and
18 Administration may promulgate rules to carry out the provisions of this
19 section that allow the ~~director~~ secretary to accept gifts, grants, bequests,
20 devises, and donations.

21
22 SECTION 3722. Arkansas Code § 26-51-2503(a)(3), concerning
23 contributions to the Arkansas School for the Blind and the Arkansas School
24 for the Deaf, is amended to read as follows:

25 (3) The ~~Director~~ Secretary of the Department of Finance and
26 Administration may promulgate all rules and regulations and all income tax
27 forms, returns, and schedules necessary to implement this section.

28
29 SECTION 3723. The introductory language of Arkansas Code § 26-51-
30 2504(d), concerning the Baby Sharon Act, is amended to read as follows:

31 (d) The ~~Director~~ Secretary of the Department of Finance and
32 Administration may:

33
34 SECTION 3724. Arkansas Code § 26-51-2504(f), concerning the Baby
35 Sharon Act, is amended to read as follows:

36 (f) The ~~director~~ secretary shall promulgate all rules and regulations

1 and all income tax forms, returns, and schedules necessary to carry out the
2 revenue-producing provisions of this section.

3
4 SECTION 3725. The introductory language of Arkansas Code § 26-51-
5 2506(d), concerning the Military Family Relief Check-off Program, is amended
6 to read as follows:

7 (d) The ~~Director~~ Secretary of the Department of Finance and
8 Administration may:

9
10 SECTION 3726. Arkansas Code § 26-51-2506(f), concerning the Military
11 Family Relief Check-off Program, is amended to read as follows:

12 (f) The ~~director~~ secretary shall promulgate rules and all income tax
13 forms, returns, and schedules necessary to carry out the revenue-producing
14 provisions of this section.

15
16 SECTION 3727. Arkansas Code § 26-51-2506(j)(2), concerning the
17 Military Family Relief Check-off Program, is amended to read as follows:

18 (2) The provisions of this section allowing the ~~director~~
19 secretary to accept gifts, grants, bequests, devises, and donations shall be
20 effective on August 1, 2005.

21
22 SECTION 3728. Arkansas Code § 26-51-2507(a)(3), concerning
23 contributions to the Arkansas Area Agencies on Aging, is amended to read as
24 follows:

25 (3) The ~~Director~~ Secretary of the Department of Finance and
26 Administration may promulgate rules and develop all income tax forms,
27 returns, and schedules necessary to implement this section.

28
29 SECTION 3729. Arkansas Code § 26-51-2508(d), concerning the income tax
30 check-off program for contributions to the Newborn Umbilical Cord Blood
31 Initiative, is amended to read as follows:

32 (d) The ~~Director~~ Secretary of the Department of Finance and
33 Administration shall promulgate all rules and all income tax forms, returns,
34 and schedules necessary to carry out the program.

35
36 SECTION 3730. Arkansas Code § 26-51-2509(c), concerning contributions

1 to the Arkansas Tax-Deferred Tuition Savings Program account, is amended to
2 read as follows:

3 (c) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall promulgate rules and develop all income tax forms,
5 returns, and schedules necessary to implement this section.

6
7 SECTION 3731. Arkansas Code § 26-51-2510(d), concerning contributions
8 to the Arkansas Game and Fish Foundation, is amended to read as follows:

9 (d) The ~~Director~~ Secretary of the Department of Finance and
10 Administration may promulgate rules necessary to carry out the program
11 established under this section.

12
13 SECTION 3732. Arkansas Code § 26-52-103(14), concerning the definition
14 of "director" under the laws regarding gross receipts tax, is repealed.

15 ~~(14) "Director" means the Director of the Department of Finance~~
16 ~~and Administration or any of his or her authorized agents;~~

17
18 SECTION 3733. Arkansas Code § 26-52-103(31), concerning the definition
19 of "tax period" under the laws regarding gross receipts tax, is amended to
20 read as follows:

21 (31) "Tax period" or "taxable period" means either the calendar
22 period or the taxpayer's fiscal period when a taxpayer has obtained a permit
23 from the ~~director~~ Secretary of the Department of Finance and Administration
24 or from any of his or her authorized agents to use a fiscal period in lieu of
25 a calendar period;

26
27 SECTION 3734. Arkansas Code § 26-52-105 is amended to read as follows:
28 26-52-105. Administration – Rules and regulations.

29 (a) The administration of this chapter is vested in and shall be
30 exercised by the ~~Director~~ Secretary of the Department of Finance and
31 Administration.

32 (b) The ~~director~~ secretary shall promulgate rules and regulations and
33 prescribe forms for the proper enforcement of this chapter.

34
35 SECTION 3735. Arkansas Code § 26-52-106(b), concerning the cost of
36 administration and the distribution of an annual surplus, is amended to read

1 as follows:

2 (b) If any funds appropriated for the administration of this chapter
3 shall remain in the hands of the ~~Director~~ Secretary of the Department of
4 Finance and Administration at the end of each fiscal year that shall not have
5 been actually used in the administration of this chapter, then the funds
6 shall be remitted by the ~~director~~ secretary to the Treasurer of State for
7 distribution in the same manner and for the same purposes provided for in §
8 26-52-107.

9

10 SECTION 3736. Arkansas Code § 26-52-107 is amended to read as follows:
11 26-52-107. Disposition of taxes, interest, and penalties.

12 All taxes, interest, penalties, and costs received by the ~~Director~~
13 Secretary of the Department of Finance and Administration under the
14 provisions of this chapter shall be general revenues and shall be deposited
15 into the State Treasury to the credit of the State Apportionment Fund. The
16 Treasurer of State shall allocate and transfer the same to the various State
17 Treasury funds participating in general revenues in the respective
18 proportions to each as provided by, and to be used for the respective
19 purposes set forth in, the Revenue Stabilization Law, § 19-5-101 et seq.

20

21 SECTION 3737. Arkansas Code § 26-52-108 is amended to read as follows:
22 26-52-108. Changes in law – Notice to permit holders.

23 The ~~Director~~ Secretary of the Department of Finance and Administration
24 shall give each gross receipts tax permit holder under § 26-52-201 written
25 notice of any new state sales and use tax law or any change in the present
26 state sales and use tax law within thirty (30) days after the adjournment of
27 the General Assembly.

28

29 SECTION 3738. Arkansas Code § 26-52-110(f), concerning sellers and
30 affiliated persons, referral agreements, and requirement of notice, is
31 amended to read as follows:

32 (f) The ~~Director~~ Secretary of the Department of Finance and
33 Administration shall promulgate rules to implement this section.

34

35 SECTION 3739. Arkansas Code § 26-52-201(a) and (b), concerning the
36 requirement for a gross receipts tax permit, are amended to read as follows:

1 (a) It shall be unlawful for any taxpayer to transact business within
2 this state prior to issuance and receipt of an Arkansas gross receipts tax
3 permit from the ~~Director~~ Secretary of the Department of Finance and
4 Administration.

5 (b) A separate permit for each business location must be obtained from
6 the ~~director~~ secretary.

7
8 SECTION 3740. Arkansas Code § 26-52-201(e), concerning the requirement
9 for a gross receipts tax permit, are amended to read as follows:

10 (e) The ~~director~~ secretary is authorized to establish types and
11 classifications of Arkansas gross receipts tax permits, including without
12 limitation special permits for taxpayers whose principal line of business
13 does not include the retail selling of tangible personal property, specified
14 digital products, or a digital code or the performing of taxable services.

15
16 SECTION 3741. Arkansas Code § 26-52-202(a), concerning an application
17 for a gross receipts tax permit, is amended to read as follows:

18 (a) Every taxpayer shall file with the ~~Director~~ Secretary of the
19 Department of Finance and Administration an application for a gross receipts
20 tax permit to conduct the taxpayer's business, setting forth such information
21 as the ~~director~~ secretary may require.

22
23 SECTION 3742. Arkansas Code § 26-52-202(c), concerning an application
24 for a gross receipts tax permit, is amended to read as follows:

25 (c) A taxpayer is permitted to file an application through an agent if
26 the registration is filed with the ~~director~~ secretary and is made in writing.

27
28 SECTION 3743. Arkansas Code § 26-52-203(a) and (b), concerning fee
29 deposits or the requirement of a bond, are amended to read as follows:

30 (a) The ~~Director~~ Secretary of the Department of Finance and
31 Administration shall require prior to the issuance of any new Arkansas gross
32 receipts tax permit the payment of a nonrefundable fee of fifty dollars
33 (\$50.00), which shall be remitted with each new application for a permit.

34 (b) All persons doing a retail business in this state, which business
35 is subject to the provisions of this chapter, who do not have a permanent
36 domicile in this state, shall make a sufficient cash deposit or sufficient

1 bond with the ~~director~~ secretary to cover their annual sales tax before doing
2 business in this state or before receiving a permit to do business in this
3 state as provided in § 26-52-201.

4
5 SECTION 3744. Arkansas Code § 26-52-207(a)(1) and (2), concerning the
6 discontinuance of a business and unpaid taxes, are amended to read as
7 follows:

8 (a)(1) Any taxpayer operating under a permit as provided in this
9 subchapter, upon discontinuance of business by sale or otherwise, shall
10 return the permit to the ~~Director~~ Secretary of the Department of Finance and
11 Administration for cancellation together with a remittance of any unpaid or
12 accrued taxes.

13 (2) Failure to surrender a permit and pay any and all accrued
14 taxes shall be sufficient cause for the ~~director~~ secretary to refuse the
15 issuance of any permit in the future to the taxpayer to engage in or transact
16 any other business in this state.

17
18 SECTION 3745. Arkansas Code § 26-52-207(b), concerning the
19 discontinuance of a business and unpaid taxes, is amended to read as follows:

20 (b) The ~~director~~ secretary shall not issue a permit to continue or
21 conduct the business to the purchaser of the business until all tax claims
22 due in the State of Arkansas under this section have been settled and paid.

23
24 SECTION 3746. Arkansas Code § 26-52-210(a)(1)(B), concerning an
25 automatic expiration of gross receipts tax permits, is amended to read as
26 follows:

27 (B)(i) The ~~Director~~ Secretary of the Department of Finance
28 and Administration shall notify the taxpayer in writing that the gross
29 receipts tax permit has expired.

30 (ii) Within thirty (30) days after the date of the
31 notice, the taxpayer shall return the permit to the ~~director~~ secretary.

32
33 SECTION 3747. Arkansas Code § 26-52-210(b), concerning an automatic
34 expiration of gross receipts tax permits, is amended to read as follows:

35 (b)(1) Any taxpayer who has been notified that his or her gross
36 receipts tax permit will expire may petition the ~~director~~ secretary to retain

1 the taxpayer's gross receipts tax permit if the taxpayer reasonably expects
2 to engage in business within the twelve-month period immediately following
3 the notification.

4 (2) The ~~director~~ secretary may allow a taxpayer to retain the
5 taxpayer's gross receipts tax permit if the taxpayer demonstrates to the
6 ~~director's~~ secretary's satisfaction that the taxpayer will require a gross
7 receipts tax permit within the following twelve (12) months to engage in
8 business.

9
10 SECTION 3748. Arkansas Code § 26-52-303(c)(1), concerning border
11 cities or towns, tax rates, and exemptions, is amended to read as follows:

12 (c)(1) The ~~Director~~ Secretary of the Department of Finance and
13 Administration shall require any person claiming this exemption to file a
14 sworn statement in writing that the person is a resident of that city or
15 incorporated town and such other information as the ~~director~~ secretary may
16 determine is necessary to establish the residence of the person.

17
18 SECTION 3749. Arkansas Code § 26-52-314(e), concerning prepaid calling
19 services and prepaid wireless calling services, is amended to read as
20 follows:

21 (e) The ~~Director~~ Secretary of the Department of Finance and
22 Administration shall promulgate rules to implement this section.

23
24 SECTION 3750. The introductory language of Arkansas Code § 26-52-
25 317(a)(1), concerning food and food ingredients, is amended to read as
26 follows:

27 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
28 Administration shall determine the following conditions:

29
30 SECTION 3751. Arkansas Code § 26-52-317(a)(1)(C)(ii), concerning food
31 and food ingredients, is amended to read as follows:

32 (ii) The ~~director~~ secretary shall make the
33 determination under subdivision (a)(1)(C)(i) of this section on a monthly
34 basis following the determination that the conditions under subdivision
35 (a)(1)(A) of this section have been met.

36

1 SECTION 3752. The introductory language of Arkansas Code § 26-52-
2 317(a)(2)(A), concerning food and food ingredients, is amended to read as
3 follows:

4 (2)(A) ~~Beginning July 1, 2013, the director~~ The secretary shall
5 make a monthly determination as to whether the aggregate amount of deductions
6 from net general revenues attributable to the following during the most
7 recently ended six-month consecutive period, as compared with the same six-
8 month period in the prior year, has declined by thirty-five million dollars
9 (\$35,000,000) or more:

10
11 SECTION 3753. Arkansas Code § 26-52-317(a)(2)(B), concerning food and
12 food ingredients, is amended to read as follows:

13 (B)(i) In making the determination in this subdivision
14 (a)(2), the ~~director~~ secretary shall consider all economic factors existing
15 at the time of the determination that could potentially affect the decline in
16 the aggregate amount of deductions, including without limitation pending
17 litigation.

18 (ii) If the consideration of additional economic
19 factors under subdivision (a)(2)(B)(i) of this section results in a
20 determination that the decline in the aggregate amount of deductions is not
21 likely to remain at that reduced level, the ~~director~~ secretary shall conclude
22 that the conditions in this subdivision (a)(2) have not been met.

23
24 SECTION 3754. Arkansas Code § 26-52-317(a)(3), concerning food and
25 food ingredients, is amended to read as follows:

26 (3) When the ~~director~~ secretary finds that all of the conditions
27 in either subdivision (a)(1) of this section or subdivision (a)(2) of this
28 section have been met, then the gross receipts or gross proceeds taxes levied
29 under subsection (c) of this section shall be levied at the rate of zero
30 percent (0%) on the sale of food and food ingredients beginning on the first
31 day of the calendar quarter that is at least thirty (30) days following the
32 determination of the ~~director~~ secretary.

33
34 SECTION 3755. Arkansas Code § 26-52-317(c)(1)(A)-(C), concerning food
35 and food ingredients, are amended to read as follows:

36 (A) Seventy-six and six-tenths percent (76.6%) of the

1 taxes, interest, penalties, and costs received by the ~~director~~ secretary
2 under this subdivision (c)(1) shall be deposited as general revenues;

3 (B) Eight and five-tenths percent (8.5%) of the taxes,
4 interest, penalties, and costs received by the ~~director~~ secretary under this
5 subdivision (c)(1) shall be deposited into the Property Tax Relief Trust
6 Fund; and

7 (C) Fourteen and nine-tenths percent (14.9%) of the taxes,
8 interest, penalties, and costs received by the ~~director~~ secretary under this
9 subdivision (c)(1) shall be deposited into the Educational Adequacy Fund.

10
11 SECTION 3756. Arkansas Code § 26-52-318(a)(21), concerning heavy
12 equipment, is amended to read as follows:

13 (21) Any other equipment determined by the ~~Director~~ Secretary of
14 the Department of Finance and Administration to be heavy equipment.

15
16 SECTION 3757. Arkansas Code § 26-52-319(a)(2)(A)-(C), concerning
17 natural gas and electricity used by manufacturers, are amended to read as
18 follows:

19 (A) Seventy-six and six-tenths percent (76.6%) of the tax,
20 interest, penalties, and costs received by the ~~Director~~ Secretary of the
21 Department of Finance and Administration shall be deposited as general
22 revenues;

23 (B) Eight and five-tenths percent (8.5%) of the tax,
24 interest, penalties, and costs received by the ~~director~~ secretary shall be
25 deposited into the Property Tax Relief Trust Fund; and

26 (C) Fourteen and nine-tenths percent (14.9%) of the tax,
27 interest, penalties, and costs received by the ~~director~~ secretary shall be
28 deposited into the Educational Adequacy Fund.

29
30 SECTION 3758. Arkansas Code § 26-52-319(e) and (f), concerning natural
31 gas and electricity used by manufacturers, are amended to read as follows:

32 (e) Before the sale of natural gas or electricity at the reduced
33 excise tax rate levied in this section, the ~~director~~ secretary may require
34 any seller of natural gas or electricity to obtain a certificate from the
35 consumer, in the form prescribed by the ~~director~~ secretary, certifying that
36 the manufacturer is eligible to purchase natural gas and electricity at the

1 reduced excise tax rate.

2 (f) The ~~director~~ secretary shall promulgate rules for the proper
3 administration of this section.

4

5 SECTION 3759. Arkansas Code § 26-52-320(c), concerning portable
6 toilets and associated services, is amended to read as follows:

7 (c) The ~~Director~~ Secretary of the Department of Finance and
8 Administration may promulgate rules to implement this section.

9

10 SECTION 3760. Arkansas Code § 26-52-321(b), concerning fishing guide
11 services, is amended to read as follows:

12 (b) The ~~Director~~ Secretary of the Department of Finance and
13 Administration shall promulgate rules to implement this section.

14

15 SECTION 3761. Arkansas Code § 26-52-322(c), concerning withdrawals
16 from stock, is amended to read as follows:

17 (c) The ~~Director~~ Secretary of the Department of Finance and
18 Administration may promulgate rules to implement this section.

19

20 SECTION 3762. Arkansas Code § 26-52-402(d), concerning tax exemptions
21 for certain machinery and equipment, is amended to read as follows:

22 (d) The ~~Director~~ Secretary of the Department of Finance and
23 Administration may promulgate rules and regulations for the orderly and
24 efficient administration of this section.

25

26 SECTION 3763. Arkansas Code § 26-52-403(c), concerning farm equipment
27 and machinery, is amended to read as follows:

28 (c) The ~~Director~~ Secretary of the Department of Finance and
29 Administration shall promulgate rules and prescribe forms for claiming the
30 exemption provided by this section.

31

32 SECTION 3764. Arkansas Code § 26-52-406(b), concerning prescription
33 drugs and oxygen, is amended to read as follows:

34 (b) The ~~Director~~ Secretary of the Department of Finance and
35 Administration shall adopt such appropriate rules and regulations as the
36 ~~director~~ secretary deems necessary to assume the effective and efficient

1 administration of the exemption provided for in this section and to prevent
2 abuse thereof.

3

4 SECTION 3765. Arkansas Code § 26-52-414(b), concerning products sold
5 to humane societies, is amended to read as follows:

6 (b) The ~~Director~~ Secretary of the Department of Finance and
7 Administration shall issue a certificate to the officers of each humane
8 society organized under § 20-19-101, which shall indicate the identity of the
9 humane society officer and the humane society with which the humane society
10 officer is associated. Sales to a humane society shall be exempt from the
11 Arkansas gross receipts tax upon presentation of the certificate.

12

13 SECTION 3766. Arkansas Code § 26-52-416(d), concerning electricity
14 sold to low-income households, is amended to read as follows:

15 (d) On forms provided by the ~~Director~~ Secretary of the Department of
16 Finance and Administration, a residential customer qualifying for the
17 exemption in this section shall notify the electric utility providing service
18 to the residential customer of the residential customer's intention to claim
19 the exemption in this section.

20

21 SECTION 3767. Arkansas Code § 26-52-416(e)(2), concerning electricity
22 sold to low-income households, is amended to read as follows:

23 (2) When a residential customer who has qualified for the
24 exemption in this section has household income exceeding the twelve-thousand-
25 dollar limit, the residential customer is disqualified from the exemption in
26 this section and shall notify the electric utility on forms provided by the
27 ~~director~~ secretary. The notice form shall be mailed to the electric utility
28 on or before March 1 of the year following the year the household income
29 exceeds twelve thousand dollars (\$12,000).

30

31 SECTION 3768. Arkansas Code § 26-52-416(f)(2), concerning electricity
32 sold to low-income households, is amended to read as follows:

33 (2) The electric utility shall bill a residential customer for
34 the amount of tax due as a result of the residential customer's
35 disqualification under this section and remit the tax to the ~~director~~
36 secretary.

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SECTION 3769. Arkansas Code § 26-52-427(f), concerning property purchased for use in the performance of construction contracts, is amended to read as follows:

(f) The ~~Director~~ Secretary of the Department of Finance and Administration shall promulgate rules and prescribe forms for claiming a rebate as provided by this section.

SECTION 3770. Arkansas Code § 26-52-440(a)(1), concerning the definition of "exemption certificate" under the laws concerning tax exemptions for qualified museums, is amended to read as follows:

(1) "Exemption certificate" means an exemption certificate issued by the ~~Director~~ Secretary of the Department of Finance and Administration under subdivision (d)(1) of this section;

SECTION 3771. Arkansas Code § 26-52-440(a)(3)(B), concerning the definition of "exemption certificate" under the laws concerning tax exemptions for qualified museums, is amended to read as follows:

(B) The ~~director~~ secretary has issued an exemption certificate to the nonprofit organization; and

SECTION 3772. The introductory language of Arkansas Code § 26-52-440(c), concerning the definition of "exemption certificate" under the laws concerning tax exemptions for qualified museums, is amended to read as follows:

(c) A nonprofit organization requesting recognition as a qualified museum shall file with the ~~director~~ secretary on forms prescribed by the ~~director~~ secretary a written statement under oath:

SECTION 3773. Arkansas Code § 26-52-440(d) and (e), concerning the definition of "exemption certificate" under the laws concerning tax exemptions for qualified museums, are amended to read as follows:

(d)(1) After filing the statement required under subdivision (c)(1) of this section, if the ~~director~~ secretary finds that the nonprofit organization has a good faith plan and intent to satisfy the conditions of subdivision (c)(2) of this section prior to January 1, 2013, the ~~director~~ secretary shall

1 issue an exemption certificate to the nonprofit organization within sixty
2 (60) days after the filing of the statement.

3 (2) The ~~director~~ secretary may revoke the exemption certificate
4 at any time after it is issued if the ~~director~~ secretary determines that the
5 nonprofit organization is unable to satisfy the conditions under subdivision
6 (c)(2) of this section prior to January 1, 2013.

7 (3) After filing the statement required under subdivision (c)(2)
8 of this section, if the ~~director~~ secretary determines that the nonprofit
9 organization has not met the conditions under subdivision (c)(2) of this
10 section, the ~~director~~ secretary shall revoke the exemption certificate of the
11 nonprofit organization.

12 (4) If the nonprofit organization fails to file the statement
13 described in subdivision (c)(2) of this section on or prior to June 30, 2013,
14 the ~~director~~ secretary shall revoke the exemption certificate.

15 (5) Revocation by the ~~director~~ secretary of an exemption
16 certificate shall be retroactive to the date of its issuance subject to
17 subsection (e) of this section.

18 (e)(1) If the ~~director~~ secretary revokes the exemption certificate,
19 any tax deficiency, related interest, and applicable penalties due under this
20 chapter, the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., or
21 the Arkansas Tax Procedure Act, § 26-18-101 et seq., may be assessed against
22 the nonprofit organization but may not be assessed against a third party that
23 has relied in good faith on the exemption certificate prior to its
24 revocation.

25 (2) If the ~~director~~ secretary revokes the exemption certificate,
26 any tax deficiency, related interest, and applicable penalties assessed
27 against the nonprofit organization shall also include any tax deficiency,
28 related interest, and applicable penalties assessed on purchases made by the
29 nonprofit organization's contractors and agents for the benefit of the
30 nonprofit organization in reliance on the exemption certificate.

31 (3)(A) Any assessment by the ~~director~~ secretary under
32 subdivision (e)(1) of this section or subdivision (e)(2) of this section
33 shall be made in accordance with the Arkansas Tax Procedure Act, § 26-18-101
34 et seq.

35 (B) However, the time period for the ~~director~~ secretary to
36 make the assessment is extended to whichever of the following occurs first:

1 (i) Three (3) years from the date the nonprofit
2 organization files the statement under subdivision (c)(2) of this section; or
3 (ii) July 1, 2016.

4 (4) The nonprofit organization may contest any assessment or
5 other determination by the ~~director~~ secretary in accordance with the Arkansas
6 Tax Procedure Act, § 26-18-101 et seq.

7
8 SECTION 3774. Arkansas Code § 26-52-441(d), concerning natural gas and
9 electricity used in the manufacturing of tires, is amended to read as
10 follows:

11 (d) The ~~Director~~ Secretary of the Department of Finance and
12 Administration shall promulgate rules for the proper administration of this
13 section.

14
15 SECTION 3775. Arkansas Code § 26-52-446(d) and (e), concerning grain
16 drying and storage facilities, are amended to read as follows:

17 (d) Before allowing the exemption of a utility under this section, the
18 ~~Director~~ Secretary of the Department of Finance and Administration may
19 require a seller of a utility to obtain a certificate from the taxpayer in
20 the form prescribed by the ~~director~~ secretary, certifying that the taxpayer
21 is eligible for the exemption.

22 (e) The ~~director~~ secretary shall promulgate rules for the proper
23 administration of this section.

24
25 SECTION 3776. Arkansas Code § 26-52-450(d) and (e), concerning
26 utilities used for qualifying agricultural structures and qualifying
27 aquaculture and horticulture equipment, are amended to read as follows:

28 (d) Before allowing the exemption of a utility under this section, the
29 ~~Director~~ Secretary of the Department of Finance and Administration may
30 require a seller of a utility to obtain a certificate from the taxpayer in
31 the form prescribed by the ~~director~~ secretary, certifying that the taxpayer
32 is eligible for the exemption.

33 (e) The ~~director~~ secretary shall promulgate rules for the proper
34 administration of this section.

35
36 SECTION 3777. Arkansas Code § 26-52-501(a)(2), concerning preparation

1 of returns and payment of taxes, is amended to read as follows:

2 (2) When a taxpayer becomes liable to file a report with the
3 ~~Director~~ Secretary of the Department of Finance and Administration, the
4 taxpayer must continue to file the report, even though no tax is due, until
5 such time as the taxpayer notifies the ~~director~~ secretary, in writing, that
6 the taxpayer is no longer liable for the report.

7

8 SECTION 3778. Arkansas Code § 26-52-501(b), concerning preparation of
9 returns and payment of taxes, is amended to read as follows:

10 (b)(1) For the purpose of ascertaining the amount of tax payable under
11 this chapter, it shall be the duty of all taxpayers on or before the
12 twentieth day of each month to deliver to the ~~director~~ secretary, upon forms
13 prescribed and furnished by the ~~director~~ secretary, returns showing the total
14 tax due derived from all taxable sales during the preceding calendar month.

15 (2) The returns shall show such further information as the
16 ~~director~~ secretary may require to enable the ~~director~~ secretary to compute
17 correctly and collect the tax levied.

18 (3) Whether an individual, corporation, partnership, limited
19 liability company, or other entity, every taxpayer shall file a single report
20 combining all taxes due derived from sales made from all Arkansas locations
21 of the taxpayer's business which are registered and permitted with the
22 ~~director~~ secretary under the same federal employer's identification number or
23 Social Security number.

24

25 SECTION 3779. Arkansas Code § 26-52-501(e), concerning preparation of
26 returns and payment of taxes, is amended to read as follows:

27 (e) The taxpayer shall compute and remit to the ~~director~~ secretary the
28 required tax due for the preceding calendar month, with the remittance of the
29 tax to accompany the returns required in this subchapter.

30

31 SECTION 3780. Arkansas Code § 26-52-501(h)-(j), concerning preparation
32 of returns and payment of taxes, are amended to read as follows:

33 (h) When the average amount of tax for which the taxpayer is liable
34 for the previous fiscal year beginning on July 1 and ending on June 30 does
35 not exceed one hundred dollars (\$100) per month, the ~~director~~ secretary may
36 notify the taxpayer that a quarterly report and remittance in lieu of a

1 monthly report may be made on or before July 20, October 20, January 20, and
2 April 20 of each year for the preceding three-month period.

3 (i) When the average amount of tax for which the taxpayer is liable
4 for the previous fiscal year beginning on July 1 and ending on June 30 does
5 not exceed twenty-five dollars (\$25.00) per month, the ~~director~~ secretary may
6 notify the taxpayer that a yearly report and remittance in lieu of a monthly
7 report may be made on or before January 20 of each year for the preceding
8 twelve-month period.

9 (j) The ~~director~~ secretary may establish by regulation separate
10 requirements for filing reports and returns and paying the tax levied under
11 this chapter for taxpayers whose principal line of business does not include
12 the retail selling of tangible personal property, specified digital products,
13 or a digital code or performing taxable services.

14

15 SECTION 3781. Arkansas Code § 26-52-502 is amended to read as follows:
16 26-52-502. Tax return on basis of cash actually received.

17 (a) Any person taxable under this chapter doing business wholly or
18 partly on a credit basis may make application to the ~~Director~~ Secretary of
19 the Department of Finance and Administration for permission to prepare his or
20 her returns on the basis of cash actually received.

21 (b) The application shall be granted by the ~~director~~ secretary under
22 such rules and regulations as the ~~director~~ secretary may prescribe.

23 (c) Any person making the application shall be taxable on all moneys
24 collected during the taxable period.

25

26 SECTION 3782. Arkansas Code § 26-52-503(a) and (b), concerning a
27 discount for early payment of taxes, are amended to read as follows:

28 (a) At the time of transmitting the returns required under this
29 chapter to the ~~Director~~ Secretary of the Department of Finance and
30 Administration, the taxpayer shall remit with the returns to the ~~director~~
31 secretary ninety-eight percent (98%) of the state tax due under this chapter
32 and ninety-eight percent (98%) of the city and county gross receipts taxes
33 collected by the ~~director~~ secretary.

34 (b) Failure of the taxpayer to remit the tax on or before the
35 twentieth day of the applicable month shall cause the taxpayer to forfeit his
36 or her claim to the discount, and the taxpayer shall remit to the ~~director~~

1 secretary one hundred percent (100%) of the amount of tax plus any penalty
2 and interest due.

3

4 SECTION 3783. The introductory language of Arkansas Code § 26-52-
5 503(c)(2)(C), concerning a discount for early payment of taxes, is amended to
6 read as follows:

7 (C) The limitations on the state tax discount under this
8 section apply to early payment of city and county gross receipts taxes
9 collected by the ~~director~~ secretary, under the following schedule:

10

11 SECTION 3784. Arkansas Code § 26-52-505(a), concerning the sales of
12 aircraft, is amended to read as follows:

13 (a) Every person selling new or used aircraft in this state, whether
14 from an established business, under a dealership, as a flying service, or as
15 a private individual, shall obtain and hold a permit as provided in § 26-52-
16 202 and shall make a monthly report and remittance to the ~~Director~~ Secretary
17 of the Department of Finance and Administration as provided in this chapter,
18 together with copies of invoices, sales tickets, or bills of sale reflecting
19 the date of all sales of aircraft, the purchaser's name and address, the
20 make, year, model, serial number, and gross sales price of each aircraft, and
21 the amount of tax collected from the purchaser.

22

23 SECTION 3785. The introductory language of Arkansas Code § 26-52-
24 508(a), concerning the collection of taxes by sellers or admissions
25 collectors, is amended to read as follows:

26 (a) The tax levied by this chapter shall be paid to the ~~Director~~
27 Secretary of the Department of Finance and Administration by:

28

29 SECTION 3786. The introductory language of Arkansas Code § 26-52-
30 509(a)(1), concerning the direct payment of taxes by a consumer or user, is
31 amended to read as follows:

32 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
33 Administration by agreement with any consumer or user may:

34

35 SECTION 3787. Arkansas Code § 26-52-509(a)(3), concerning the direct
36 payment of taxes by a consumer or user, is amended to read as follows:

1 (3) A person who has entered into a limited direct pay agreement
2 under this section and makes purchases of property or services under the
3 authority of that agreement without paying the gross receipts or compensating
4 use taxes due on those purchases is responsible for remitting the proper
5 amount of tax due to the ~~director~~ secretary as required by law.

6
7 SECTION 3788. Arkansas Code § 26-52-509(b), concerning the direct
8 payment of taxes by a consumer or user, is amended to read as follows:

9 (b) The agreements may be revoked at any time by the ~~director~~
10 secretary whenever the ~~director~~ secretary determines that the revocation
11 thereof should be in the best interests of collection of gross receipts
12 taxes.

13
14 SECTION 3789. Arkansas Code § 26-52-510(a)(1) and (2), concerning the
15 direct payment of tax by a consumer on new and used motor vehicles, trailers,
16 or semitrailers, are amended to read as follows:

17 (a)(1) On or before the time for registration as prescribed by § 27-
18 14-903(a), a consumer shall pay to the ~~Director~~ Secretary of the Department
19 of Finance and Administration the tax levied by this chapter and all other
20 gross receipts taxes levied by the state with respect to the sale of a new or
21 used motor vehicle, trailer, or semitrailer required to be licensed in this
22 state, instead of the taxes being collected by the dealer or seller.

23 (2) The ~~director~~ secretary shall require the payment of the
24 taxes at the time of registration before issuing a license for the new or
25 used motor vehicle, trailer, or semitrailer.

26
27 SECTION 3790. Arkansas Code § 26-52-510(a)(4)(B), concerning the
28 direct payment of tax by a consumer on new and used motor vehicles, trailers,
29 or semitrailers, are amended to read as follows:

30 (B) The consumer shall pay to the ~~director~~ secretary the
31 penalty under subdivision (a)(4)(A) of this section and the taxes due before
32 the ~~director~~ secretary issues a license for the motor vehicle, trailer, or
33 semitrailer.

34
35 SECTION 3791. Arkansas Code § 26-52-510(g)(1)(B) and (C), concerning
36 the direct payment of tax by a consumer on new and used motor vehicles,

1 trailers, or semitrailers, are amended to read as follows:

2 (B) If the published loan value exceeds the invoiced
3 price, then the taxpayer must establish to the ~~director's~~ secretary's
4 satisfaction that the price reflected on the invoice or other document is
5 true and correct.

6 (C) If the ~~director~~ secretary determines that the invoiced
7 price is not the actual selling price of the vehicle, then the total
8 consideration will be deemed to be the published loan value.

9

10 SECTION 3792. Arkansas Code § 26-52-510(g)(2), concerning the direct
11 payment of tax by a consumer on new and used motor vehicles, trailers, or
12 semitrailers, is amended to read as follows:

13 (2)(A) For purposes of this section, the total consideration for
14 a new or used trailer or semitrailer shall be the actual sales price as
15 provided on a bill of sale, invoice, or financing agreement.

16 (B) The ~~director~~ secretary may require additional
17 information to conclusively establish the true selling price of the new or
18 used trailer or semitrailer.

19

20 SECTION 3793. The introductory language of Arkansas Code § 26-52-
21 514(a), concerning the determination of total consideration for the sale of a
22 vehicle and an alternative method, is amended to read as follows:

23 (a) The ~~Director~~ Secretary of the Department of Finance and
24 Administration is authorized to adopt an alternative method for determining
25 the total consideration for the sale of new or used:

26

27 SECTION 3794. The introductory language of Arkansas Code § 26-52-
28 515(a), concerning the refund of sales tax on vehicles returned as defective,
29 is amended to read as follows:

30 (a) The ~~Director~~ Secretary of the Department of Finance and
31 Administration shall refund to a manufacturer any state and local sales or
32 use tax which the manufacturer refunded to the consumer, lessee, or lessor
33 pursuant to the Arkansas New Motor Vehicle Quality Assurance Act, § 4-90-401
34 et seq., or other defective vehicle buy-back agreement, if the manufacturer
35 provides to the Department of Finance and Administration:

36

1 SECTION 3795. Arkansas Code § 26-52-515(a)(5), concerning the refund
2 of sales tax on vehicles returned as defective, is amended to read as
3 follows:

4 (5) Such other information as shall be required by the ~~director~~
5 secretary.

6
7 SECTION 3796. Arkansas Code § 26-52-515(c)(2), concerning the refund
8 of sales tax on vehicles returned as defective, is amended to read as
9 follows:

10 (2) The ~~director~~ secretary shall prescribe the forms and other
11 information necessary to issue the voucher.

12
13 SECTION 3797. Arkansas Code § 26-52-517(a), concerning exemption
14 certificates, is amended to read as follows:

15 (a) The sales tax liability for all sales of tangible personal
16 property, specified digital products, digital codes, and taxable services is
17 upon the seller unless the purchaser claims an exemption and the seller
18 obtains identifying information of the purchaser and the reason the purchaser
19 is claiming the exemption in the manner prescribed by the ~~Director~~ Secretary
20 of the Department of Finance and Administration.

21
22 SECTION 3798. Arkansas Code § 26-52-517(b)(1), concerning exemption
23 certificates, is amended to read as follows:

24 (b)(1) When tangible personal property, specified digital products, a
25 digital code, or taxable services are purchased tax-free under subsection (a)
26 of this section and the tangible personal property, specified digital
27 products, digital code, or taxable service is not resold by the purchaser,
28 the purchaser is solely liable for reporting and remitting to the ~~director~~
29 secretary any tax which should have been paid at the time of purchase.

30
31 SECTION 3799. Arkansas Code § 26-52-517(c)(1), concerning exemption
32 certificates, is amended to read as follows:

33 (c)(1) The ~~director~~ secretary may provide sale for resale certificates
34 to assist retailers in properly accounting for nontaxable sales of tangible
35 personal property or taxable services.

36

1 SECTION 3800. Arkansas Code § 26-52-517(e), concerning exemption
2 certificates, is amended to read as follows:

3 (e) A seller that follows the exemption requirements as prescribed by
4 the ~~director~~ secretary is relieved from any tax otherwise applicable if it is
5 determined that the purchaser improperly claimed an exemption.
6

7 SECTION 3801. Arkansas Code § 26-52-518(c), concerning special events,
8 is amended to read as follows:

9 (c) Promoters or organizers of special events shall register for sales
10 tax collection with the ~~Director~~ Secretary of the Department of Finance and
11 Administration and shall provide to special event vendors special event sales
12 tax reporting forms and any other information which may be required by the
13 ~~director~~ secretary.
14

15 SECTION 3802. Arkansas Code § 26-52-518(f)(2), concerning special
16 events, is amended to read as follows:

17 (2) Promoters and organizers shall be liable for their failure
18 to remit to the ~~director~~ secretary sales taxes which are remitted to them by
19 special event vendors.
20

21 SECTION 3803. The introductory language of Arkansas Code § 26-52-
22 519(a), concerning a credit voucher for sales tax on motor vehicles destroyed
23 by catastrophic events, is amended to read as follows:

24 (a) When a consumer has paid sales taxes on a motor vehicle within the
25 last one hundred eighty (180) days and the motor vehicle is destroyed or
26 damaged by some catastrophic event resulting from a natural cause to the
27 extent that the value of the motor vehicle is less than thirty percent (30%)
28 of its retail value, as found in the National Automobile Dealers
29 Association's Official Price Guide, or other source approved by the Office of
30 Motor Vehicle, the consumer may apply to the ~~Director~~ Secretary of the
31 Department of Finance and Administration for a sales tax credit voucher in
32 the amount of any state and local sales or use taxes paid on the motor
33 vehicle transaction, if the consumer provides to the Department of Finance
34 and Administration:
35

36 SECTION 3804. Arkansas Code § 26-52-519(a)(5), concerning a credit

1 voucher for sales tax on motor vehicles destroyed by catastrophic events, is
2 amended to read as follows:

3 (5) Any other information as shall be required by the ~~director~~
4 secretary as necessary to issue the voucher.

5
6 SECTION 3805. Arkansas Code § 26-52-519(c), concerning a credit
7 voucher for sales tax on motor vehicles destroyed by catastrophic events, is
8 amended to read as follows:

9 (c) When a consumer has tendered a trade-in motor vehicle toward the
10 purchase of the vehicle which is credited under subsection (a) of this
11 section, the consumer may apply to the ~~director~~ secretary for a credit
12 voucher in the amount of the trade-in vehicle's consideration also.

13
14 SECTION 3806. Arkansas Code § 26-52-519(e), concerning a credit
15 voucher for sales tax on motor vehicles destroyed by catastrophic events, is
16 amended to read as follows:

17 (e) The ~~director~~ secretary shall prescribe the forms, the nature of
18 satisfactory proof of the vehicle's values, and any other information as is
19 necessary to issue the credit vouchers under this section.

20
21 SECTION 3807. Arkansas Code § 26-52-523(c)(1) and (2), concerning a
22 credit or rebate on local sales and use tax, are amended to read as follows:

23 (c)(1) A purchaser that is required by § 26-52-501, § 26-52-509, or §
24 26-53-125 to file a sales or use tax return may file a claim for a credit or
25 rebate under this section with the ~~Director~~ Secretary of the Department of
26 Finance and Administration in connection with the sales or use tax return and
27 offset the amount of credit or rebate claimed against any municipal or county
28 sales or use tax due to be remitted with the return.

29 (2) A purchaser that qualifies for a credit or rebate under this
30 section and is not required to file a sales or use tax return as provided in
31 subdivision (c)(1) of this section may file a claim for a credit or rebate
32 under this section with the ~~director~~ secretary.

33
34 SECTION 3808. Arkansas Code § 26-52-523(g), concerning a credit or a
35 rebate on local sales and use tax, is amended to read as follows:

36 (g) The ~~director~~ secretary may promulgate rules to administer this

1 section, including without limitation providing an administratively feasible
2 method for filing a claim for a credit or rebate and any necessary forms.

3
4 SECTION 3809. Arkansas Code § 26-52-523(i), concerning a credit or a
5 rebate on local sales and use tax, is amended to read as follows:

6 (i) Except as provided in subsection (h) of this section, this section
7 applies to any local sales or use tax collected by the ~~director~~ secretary
8 pursuant to any state tax law authorizing a county or municipality to levy a
9 sales or use tax.

10
11 SECTION 3810. The introductory language of Arkansas Code § 26-52-
12 802(a), concerning the sale of manufactured homes, modular homes, or mobile
13 homes, is amended to read as follows:

14 (a) Whether from an established business or by a licensed retailer,
15 every person selling manufactured homes or modular homes in this state shall
16 obtain a permit and report and remit to the ~~Director~~ Secretary of the
17 Department of Finance and Administration as provided in this chapter,
18 together with:

19
20 SECTION 3811. Arkansas Code § 26-53-102(9), concerning the definition
21 of "director" under the Arkansas Compensating Tax Act of 1949, is repealed.

22 ~~(9) "Director" means the Director of the Department of Finance~~
23 ~~and Administration;~~

24
25 SECTION 3812. Arkansas Code § 26-53-103(a), concerning the
26 administration of the Arkansas Compensating Tax Act of 1949, is amended to
27 read as follows:

28 (a) The administration of this subchapter is vested in and shall be
29 exercised by the ~~Director~~ Secretary of the Department of Finance and
30 Administration.

31
32 SECTION 3813. Arkansas Code § 26-53-104(a), concerning rules,
33 regulations, and forms under the Arkansas Compensating Tax Act of 1949, is
34 amended to read as follows:

35 (a) The ~~Director~~ Secretary of the Department of Finance and
36 Administration shall promulgate rules and regulations and prescribe forms for

1 the proper enforcement of this subchapter.

2
3 SECTION 3814. Arkansas Code § 26-53-104(b)(2), concerning rules,
4 regulations, and forms under the Arkansas Compensating Tax Act of 1949, is
5 amended to read as follows:

6 (2) A complete file of all the rules, regulations, and forms
7 shall be kept in the office of the ~~director~~ secretary.

8
9 SECTION 3815. Arkansas Code § 26-53-105 is amended to read as follows:
10 26-53-105. Sales and Use Tax Section.

11 The ~~Director~~ Secretary of the Department of Finance and Administration
12 shall create within the Revenue Division of the Department of Finance and
13 Administration the Sales and Use Tax Section for the collection, enforcement,
14 and administration of the tax levied by this subchapter.

15
16 SECTION 3816. Arkansas Code § 26-53-114(d), concerning an exemption
17 for certain machinery and equipment, is amended to read as follows:

18 (d) The ~~Director~~ Secretary of the Department of Finance and
19 Administration may promulgate rules and regulations for the orderly and
20 efficient administration of this section.

21
22 SECTION 3817. Arkansas Code § 26-53-121(1), concerning the
23 registration of vendors, is amended to read as follows:

24 (1) Register with the ~~Director~~ Secretary of the Department of
25 Finance and Administration;

26
27 SECTION 3818. Arkansas Code § 26-53-121(3), concerning the
28 registration of vendors, is amended to read as follows:

29 (3) Provide other information as the ~~director~~ secretary may
30 require.

31
32 SECTION 3819. Arkansas Code § 26-53-123(b), concerning tax liability,
33 is amended to read as follows:

34 (b) However, a receipt from a vendor authorized by the ~~Director~~
35 Secretary of the Department of Finance and Administration under such rules
36 and regulations as he or she may prescribe to collect the tax imposed given

1 to the purchaser in accordance with the provisions of §§ 26-53-121 and 26-53-
2 122 shall be sufficient to relieve the purchaser from further liability for
3 the tax to which the receipt may refer.

4
5 SECTION 3820. Arkansas Code § 26-53-125(a)(1) and (2), concerning the
6 return and payment of taxes, are amended to read as follows:

7 (a)(1)(A) The tax imposed by this subchapter shall be due and payable
8 to the ~~Director~~ Secretary of the Department of Finance and Administration
9 monthly on or before the twentieth day of each month except as provided in
10 this subchapter.

11 (B) When a taxpayer has become liable to file a report
12 with the ~~director~~ secretary, the taxpayer must continue to file a report,
13 even though no tax is due, until the taxpayer notifies the ~~director~~ secretary
14 in writing that the taxpayer is no longer liable for those reports.

15 (2) Every vendor selling tangible personal property, specified
16 digital products, a digital code, or taxable services for storage, use,
17 distribution, or consumption in this state shall file with the ~~director~~
18 secretary on or before the twentieth day of each month a sales and use tax
19 return for the preceding monthly period in such form as may be prescribed by
20 the ~~director~~ secretary, showing:

21 (A) The total tax levied by this subchapter due on all
22 tangible personal property, specified digital products, digital codes, or
23 taxable services sold by the vendor during the preceding monthly period, the
24 storage, use, distribution, or consumption of which is subject to the tax
25 levied by this subchapter; and

26 (B) Such other information as the ~~director~~ secretary may
27 deem necessary for the proper administration of this subchapter.

28
29 SECTION 3821. Arkansas Code § 26-53-125(b)(1), concerning the return
30 and payment of taxes, is amended to read as follows:

31 (b)(1) Every person purchasing tangible personal property, specified
32 digital products, a digital code, or taxable services of which the storage,
33 use, distribution, or consumption is subject to the tax levied by this
34 subchapter and who has not paid the tax due with respect to the tangible
35 personal property, specified digital products, digital code, or taxable
36 services to a vendor registered in accordance with the provisions of §§ 26-

1 53-121 and 26-53-122 shall file a return with the ~~director~~ secretary on or
2 before the twentieth day of each month for the preceding monthly period in
3 such a form as may be prescribed by the ~~director~~ secretary showing:

4 (A) The tax levied by this subchapter due on the tangible
5 personal property, specified digital products, digital code, or taxable
6 services purchased during the preceding monthly period; and

7 (B) Such other information as the ~~director~~ secretary may
8 deem necessary for the proper administration of this subchapter.

9
10 SECTION 3822. Arkansas Code § 26-53-125(c)(1), concerning the return
11 and payment of taxes, is amended to read as follows:

12 (1) Upon registration, the ~~director~~ secretary shall provide the
13 vendor the required Arkansas returns;

14
15 SECTION 3823. Arkansas Code § 26-53-125(d)(1), concerning the return
16 and payment of taxes, is amended to read as follows:

17 (d)(1) When the average amount of tax for which the taxpayer is liable
18 for the previous fiscal year beginning on July 1 and ending on June 30 does
19 not exceed one hundred dollars (\$100) per month, the ~~director~~ secretary may
20 notify the taxpayer that a quarterly report and remittance in lieu of a
21 monthly report may be made on or before July 20, October 20, January 20, and
22 April 20 of each year for the preceding three-month period.

23
24 SECTION 3824. Arkansas Code § 26-53-126(a)(2), concerning taxes,
25 payment, and collections on new and used motor vehicles, trailers, and
26 semitrailers, is amended to read as follows:

27 (2)(A) On or before the time for registration as prescribed by §
28 27-14-903(a), the person making application to register the motor vehicle,
29 trailer, or semitrailer shall pay the taxes to the ~~Director~~ Secretary of the
30 Department of Finance and Administration instead of the taxes being collected
31 by the dealer or individual seller.

32 (B) The ~~director~~ secretary shall collect the taxes before
33 issuing a license for the motor vehicle, trailer, or semitrailer.

34
35 SECTION 3825. Arkansas Code § 26-53-126(a)(4)(B), concerning taxes,
36 payment, and collections on new and used motor vehicles, trailers, and

1 semitrailers, is amended to read as follows:

2 (B) The person making application to register the motor
3 vehicle, trailer, or semitrailer shall pay to the ~~director~~ secretary the
4 penalty under subdivision (a)(4)(A) of this section and the taxes due before
5 the ~~director~~ secretary issues a license for the motor vehicle, trailer, or
6 semitrailer.

7

8 SECTION 3826. Arkansas Code § 26-53-126(f)(1)(B) and (C), concerning
9 taxes, payment, and collections on new and used motor vehicles, trailers, and
10 semitrailers, are amended to read as follows:

11 (B) If the published loan value exceeds the invoiced
12 price, then the taxpayer must establish to the ~~director's~~ secretary's
13 satisfaction that the price reflected on the invoice or other document is
14 true and correct.

15 (C) If the ~~director~~ secretary determines that the invoiced
16 price is not the actual selling price of the vehicle, then the total
17 consideration will be deemed to be the published loan value.

18

19 SECTION 3827. Arkansas Code § 26-53-126(f)(2)(B), concerning taxes,
20 payment, and collections on new and used motor vehicles, trailers, and
21 semitrailers, is amended to read as follows:

22 (B) The ~~director~~ secretary may require additional
23 information to conclusively establish the true selling price of the new or
24 used trailer or semitrailer.

25

26 SECTION 3828. Arkansas Code § 26-53-127 is amended to read as follows:
27 26-53-127. Refunds to governmental agencies.

28 A governmental agency may apply to the ~~Director~~ Secretary of the
29 Department of Finance and Administration for refund of the amount of the tax
30 levied and paid upon sales to it for food and food ingredients used for free
31 distribution to the poor and needy or to public penal and eleemosynary
32 institutions, as provided by law.

33

34 SECTION 3829. Arkansas Code § 26-53-129 is amended to read as follows:
35 26-53-129. Suits for violations of subchapter – Agent for service.

36 (a) In all suits brought in any of the courts of this state by the

1 ~~Director~~ Secretary of the Department of Finance and Administration against
2 any vendor for any violation of this subchapter, the suits shall be brought
3 thereon in any courts of this state having jurisdiction of the subject
4 matter.

5 (b)(1) Every vendor shall designate with the ~~director~~ Secretary of the
6 Department of Finance and Administration an agent for service within this
7 state for the purpose of enforcing this subchapter.

8 (2) If a vendor has not designated or shall fail to designate
9 with the ~~director~~ Secretary of the Department of Finance and Administration
10 an agent for service within this state, then the Secretary of State shall be
11 deemed the agent for service, or any agent or employee of the vendor within
12 this state shall be deemed agent for service.

13

14 SECTION 3830. Arkansas Code § 26-53-131(a)(1)(A)(ii), concerning
15 credit for taxes paid in another state, is amended to read as follows:

16 (ii) Proof of payment of such a tax shall be made
17 according to the rules and regulations promulgated by the ~~Director~~ Secretary
18 of the Department of Finance and Administration.

19

20 SECTION 3831. Arkansas Code § 26-53-131(a)(1)(B), concerning credit
21 for taxes paid in another state, is amended to read as follows:

22 (B) If the amount of tax paid in another state is less
23 than the amount of Arkansas compensating tax imposed on the property or
24 services by this subchapter, then the taxpayer shall pay to the ~~director~~
25 secretary an amount of Arkansas compensating tax sufficient to make the
26 combined amount of tax paid in the other state and this state equal to the
27 total amount of Arkansas compensating tax that would be due if no tax on the
28 property or services had been paid to any other state.

29

30 SECTION 3832. Arkansas Code § 26-53-138(f), concerning exemptions for
31 property purchased for the use and performance of a construction contract, is
32 amended to read as follows:

33 (f) The ~~Director~~ Secretary of the Department of Finance and
34 Administration shall promulgate rules and prescribe forms for claiming a
35 rebate as provided by this section.

36

1 SECTION 3833. The introductory language of Arkansas Code § 26-53-
2 145(a)(1), concerning food and food ingredients, is amended to read as
3 follows:

4 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
5 Administration shall determine the following conditions:

6
7 SECTION 3834. Arkansas Code § 26-53-145(a)(1)(C)(ii), concerning food
8 and food ingredients, is amended to read as follows:

9 (ii) The ~~director~~ secretary shall make the
10 determination under subdivision (a)(1)(C)(i) of this section on a monthly
11 basis following the determination that the conditions under subdivision
12 (a)(1)(A) of this section have been met.

13
14 SECTION 3835. The introductory language of Arkansas Code § 26-53-
15 145(a)(2)(A), concerning food and food ingredients, is amended to read as
16 follows:

17 (2)(A) Beginning July 1, 2013, the ~~director~~ secretary shall make
18 a monthly determination as to whether the aggregate amount of deductions from
19 net general revenues attributable to the following during the most recently
20 ended six-month consecutive period, as compared with the same six-month
21 period in the prior year, has declined by thirty-five million dollars
22 (\$35,000,000) or more:

23
24 SECTION 3836. Arkansas Code § 26-53-145(a)(2)(B), concerning food and
25 food ingredients, is amended to read as follows:

26 (B)(i) In making the determination in this subdivision
27 (a)(2), the ~~director~~ secretary shall consider all economic factors existing
28 at the time of the determination that could potentially affect the decline in
29 the aggregate amount of deductions, including without limitation pending
30 litigation.

31 (ii) If the consideration of additional economic
32 factors under subdivision (a)(2)(B)(i) of this section results in a
33 determination that the decline in the aggregate amount of deductions is not
34 likely to remain at that reduced level, the ~~director~~ secretary shall conclude
35 that the conditions in this subdivision (a)(2) have not been met.

36

1 SECTION 3837. Arkansas Code § 26-53-145(a)(3), concerning food and
2 food ingredients, is amended to read as follows:

3 (3) When the ~~director~~ secretary finds that all of the conditions
4 in either subdivision (a)(1) or subdivision (a)(2) of this section have been
5 met, then the compensating use taxes levied under subsection (c) of this
6 section shall be levied at the rate of zero percent (0%) on the sale of food
7 and food ingredients beginning on the first day of the calendar quarter that
8 is at least thirty (30) days following the determination of the ~~director~~
9 secretary.

10
11 SECTION 3838. Arkansas Code § 26-53-145(c)(1)(A)-(C), concerning food
12 and food ingredients, are amended to read as follows:

13 (A) Seventy-six and six-tenths percent (76.6%) of the
14 taxes, interest, penalties, and costs received by the ~~director~~ secretary
15 under this subdivision (c)(1) shall be deposited as general revenues;

16 (B) Eight and five-tenths percent (8.5%) of the taxes,
17 interest, penalties, and costs received by the ~~director~~ secretary under this
18 subdivision (c)(1) shall be deposited into the Property Tax Relief Trust
19 Fund; and

20 (C) Fourteen and nine-tenths percent (14.9%) of the taxes,
21 interest, penalties, and costs received by the ~~director~~ secretary under this
22 subdivision (c)(1) shall be deposited into the Educational Adequacy Fund.

23
24 SECTION 3839. Arkansas Code § 26-53-146(a)(1), concerning the
25 definition of "exemption certification" under the exemptions for qualified
26 museums, is amended to read as follows:

27 (1) "Exemption certificate" means an exemption certificate
28 issued by the ~~Director~~ Secretary of the Department of Finance and
29 Administration under subdivision (d)(1) of this section;

30
31 SECTION 3840. Arkansas Code § 26-53-146(a)(3)(B), concerning the
32 exemptions for qualified museums, is amended to read as follows:

33 (B) The ~~director~~ secretary has issued an exemption
34 certificate to the nonprofit organization; and

35
36 SECTION 3841. The introductory language of Arkansas Code § 26-53-

1 146(c), concerning the exemptions for qualified museums, is amended to read
2 as follows:

3 (c) A nonprofit organization requesting recognition as a qualified
4 museum shall file with the ~~director~~ secretary on forms prescribed by the
5 ~~director~~ secretary a written statement under oath:
6

7 SECTION 3842. Arkansas Code § 26-53-146(d) and (e), concerning the
8 exemptions for qualified museums, are amended to read as follows:

9 (d)(1) After filing the statement required under subdivision (c)(1) of
10 this section, if the ~~director~~ secretary finds that the nonprofit organization
11 has a good faith plan and intent to satisfy the conditions of subdivision
12 (c)(2) of this section prior to January 1, 2013, the ~~director~~ secretary shall
13 issue an exemption certificate to the nonprofit organization within sixty
14 (60) days after the filing of the statement.

15 (2) The ~~director~~ secretary may revoke the exemption certificate
16 at any time after it is issued if the ~~director~~ secretary determines that the
17 nonprofit organization is unable to satisfy the conditions under subdivision
18 (c)(2) of this section prior to January 1, 2013.

19 (3) After filing the statement required under subdivision (c)(2)
20 of this section, if the ~~director~~ secretary determines that the nonprofit
21 organization has not met the conditions under subdivision (c)(2) of this
22 section, the ~~director~~ secretary shall revoke the exemption certificate of the
23 nonprofit organization.

24 (4) If the nonprofit organization fails to file the statement
25 described in subdivision (c)(2) of this section on or prior to June 30, 2013,
26 the ~~director~~ secretary shall revoke the exemption certificate.

27 (5) Revocation by the ~~director~~ secretary of an exemption
28 certificate shall be retroactive to the date of its issuance subject to
29 subsection (e) of this section.

30 (e)(1) If the ~~director~~ secretary revokes the exemption certificate,
31 any tax deficiency, related interest, and applicable penalties due under the
32 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., this subchapter, or
33 the Arkansas Tax Procedure Act, § 26-18-101 et seq., may be assessed against
34 the nonprofit organization but may not be assessed against a third party that
35 has relied in good faith on the exemption certificate prior to its
36 revocation.

1 (2) If the ~~director~~ secretary revokes the exemption certificate,
2 any tax deficiency, related interest, and applicable penalties assessed
3 against the nonprofit organization shall also include any tax deficiency,
4 related interest, and applicable penalties assessed on purchases made by the
5 nonprofit organization's contractors and agents for the benefit of the
6 nonprofit organization in reliance on the exemption certificate.

7 (3)(A) Any assessment by the ~~director~~ secretary under
8 subdivision (e)(1) ~~of this section~~ or subdivision (e)(2) of this section
9 shall be made in accordance with the Arkansas Tax Procedure Act, § 26-18-101
10 et seq.

11 (B) However, the time period for the ~~director~~ secretary to
12 make the assessment is extended to whichever of the following occurs first:

13 (i) Three (3) years from the date the nonprofit
14 organization files the statement under subdivision (c)(2) of this section; or

15 (ii) July 1, 2016.

16 (4) The nonprofit organization may contest any assessment or
17 other determination by the ~~director~~ secretary in accordance with the Arkansas
18 Tax Procedure Act, § 26-18-101 et seq.

19
20 SECTION 3843. Arkansas Code § 26-53-147(b) and (c), concerning heavy
21 equipment, are amended to read as follows:

22 (b) The purchaser shall pay the use tax to the ~~Director~~ Secretary of
23 the Department of Finance and Administration.

24 (c) If the purchaser pays the use tax to an out-of-state dealer, the
25 purchaser shall present proof to the ~~director~~ secretary that the Arkansas use
26 tax has been paid.

27
28 SECTION 3844. Arkansas Code § 26-53-148(a)(2)(A)-(C), concerning
29 natural gas and electricity used by manufacturers, are amended to read as
30 follows:

31 (A) Seventy-six and six-tenths percent (76.6%) of the tax,
32 interest, penalties, and costs received by the ~~Director~~ Secretary of the
33 Department of Finance and Administration shall be deposited as general
34 revenues;

35 (B) Eight and five-tenths percent (8.5%) of the tax,
36 interest, penalties, and costs received by the ~~director~~ secretary shall be

1 deposited into the Property Tax Relief Trust Fund; and

2 (C) Fourteen and nine-tenths percent (14.9%) of the tax,
3 interest, penalties, and costs received by the ~~director~~ secretary shall be
4 deposited into the Educational Adequacy Fund.

5
6 SECTION 3845. Arkansas Code § 26-53-148(e) and (f), concerning natural
7 gas and electricity used by manufacturers, are amended to read as follows:

8 (e) Before purchasing any natural gas or electricity at the reduced
9 excise tax rate levied in this section, the ~~director~~ secretary may require
10 any seller of natural gas or electricity to obtain a certificate from the
11 consumer, in the form prescribed by the ~~director~~ secretary, certifying that
12 the manufacturer is eligible to purchase natural gas and electricity at the
13 reduced excise tax rate.

14 (f) The ~~director~~ secretary shall promulgate rules for the proper
15 administration of this section.

16
17 SECTION 3846. Arkansas Code § 26-53-203(b), concerning tangible
18 personal property, specified digital products, or a digital code procured
19 from outside the state for use by contractors, is amended to read as follows:

20 (b) In the case of leases or rentals of tangible personal property,
21 specified digital products, or a digital code by a contractor for use,
22 storage, distribution, or consumption in this state, the contractor shall
23 report and remit the compensating tax on the basis of rental or lease
24 payments made to the lessor of the tangible personal property, specified
25 digital products, or digital code during the term of the lease or rental,
26 which lease rentals shall be in accordance with written contracts between the
27 lessor and the lessee furnished to the ~~Director~~ Secretary of the Department
28 of Finance and Administration.

29
30 SECTION 3847. Arkansas Code § 26-53-203(c)(1) and (2), concerning
31 tangible personal property, specified digital products, or a digital code
32 procured from outside the state for use by contractors, are amended to read
33 as follows:

34 (c)(1) This subchapter does not apply in respect to the use,
35 consumption, distribution, or storage of tangible personal property,
36 specified digital products, or a digital code as defined in this chapter for

1 use or consumption in this state upon which a like tax equal to or greater
2 than the amount imposed by this subchapter has been paid in another state,
3 the proof of payment of the tax to be according to rules and regulations made
4 by the ~~director~~ secretary.

5 (2) If the amount of tax paid in another state is not at least
6 equal to or greater than the amount of tax imposed by the Arkansas
7 Compensating Tax Act of 1949, § 26-53-101 et seq., then the contractor shall
8 pay to the ~~director~~ secretary an amount sufficient to make the tax paid in
9 the other state and this state equal to the total amount of tax due under
10 Arkansas law.

11

12 SECTION 3848. Arkansas Code § 26-53-301 is amended to read as follows:

13 26-53-301. Authority of ~~director~~ secretary to negotiate enforcement
14 agreements with other states.

15 (a) When in the judgment of the ~~Director~~ Secretary of the Department
16 of Finance and Administration it is necessary in order to secure the
17 collection of any tax, penalties, or interest due or to become due under this
18 subchapter, the ~~director~~ secretary may negotiate agreements with the tax
19 departments of other states in respect to the collecting, reporting, payment,
20 and enforcement of tax on sales of tangible personal property, specified
21 digital products, a digital code, or taxable services to residents of
22 Arkansas by a retailer maintaining a place of business in the other state.

23 (b) In consideration of the agreement, the ~~director~~ secretary may make
24 similar agreements for the collecting, reporting, payment, and enforcement of
25 tax as imposed by the other states on sales of tangible personal property,
26 specified digital products, a digital code, or taxable services to residents
27 of other states by retailers maintaining places of business in Arkansas.

28

29 SECTION 3849. Arkansas Code § 26-53-302 is amended to read as follows:

30 26-53-302. Arrangements for collection and payment.

31 The ~~Director~~ Secretary of the Department of Finance and Administration,
32 in negotiating an agreement with the tax department of another state, may as
33 part of the agreement provide for reciprocal arrangements whereby the parties
34 collecting the tax in the other state may deduct at the time of making
35 returns to the ~~director~~ secretary such percentage of the amount due and
36 accounted for, which may be retained by the parties reporting as an offset

1 against costs of collecting and reporting as is allowed by other states to
2 parties in this state collecting the tax for the other state. No deduction
3 shall be allowed, however, if the amount due is delinquent at the time of the
4 tax payment.

5

6 SECTION 3850. Arkansas Code § 26-53-303 is amended to read as follows:
7 26-53-303. Waiver of collection and enforcement of taxes.

8 (a) The ~~Director~~ Secretary of the Department of Finance and
9 Administration, in negotiating agreements, is authorized by way of compromise
10 to waive the collection and enforcement of taxes on sales to residents of
11 Arkansas made in another state and delivered into Arkansas when the sales
12 were made prior to the effective date of any agreement negotiated.

13 (b) However, the ~~director~~ secretary in any case shall not be
14 authorized to waive payment and enforcement of the tax in another state
15 unless the tax department of the other state waives collection, payment, and
16 enforcement of their tax in this state in the same manner as the tax payment
17 is waived by this state.

18

19 SECTION 3851. Arkansas Code § 26-54-109(e), concerning a list to be
20 prepared of all organizing and qualifying corporations, is amended to read as
21 follows:

22 (e) The ~~Director~~ Secretary of the Department of Finance and
23 Administration shall provide the Secretary of State a list of corporations
24 doing business in this state and filing tax reports with the Department of
25 Finance and Administration. However, the ~~director~~ Secretary of the Department
26 of Finance and Administration shall not include any information deemed
27 confidential by any other law.

28

29 SECTION 3852. Arkansas Code § 26-55-101(b), concerning an exemption
30 for the United States Government's vehicles and refunds, is amended to read
31 as follows:

32 (b) When motor vehicle fuel upon which the tax has been paid is sold
33 to any agent or employee of the United States Government for use in a motor
34 vehicle belonging to the United States Government, and is used in its
35 business exclusively, the wholesaler or dealer may not charge the consumer
36 with the amount of the tax but may claim the refund of the tax under such

1 regulations as the ~~Director~~ Secretary of the Department of Finance and
2 Administration may prescribe.

3
4 SECTION 3853. Arkansas Code § 26-55-204 is amended to read as follows:
5 26-55-204. Rules and regulations.

6 The ~~Director~~ Secretary of the Department of Finance and Administration
7 shall prescribe and publish such rules and regulations as may be necessary
8 for the enforcement of this subchapter.

9
10 SECTION 3854. Arkansas Code § 26-55-207(2), concerning tax exemptions,
11 is amended to read as follows:

12 (2) The sale of motor fuel by a duly licensed distributor for
13 export from the State of Arkansas, and shipped by common carrier FOB
14 destination, to any other state or territory or to any foreign country, or
15 the export of motor fuel by a duly licensed distributor from the State of
16 Arkansas to any other state or territory or to any foreign country, if
17 satisfactory proof of actual exportation of all the motor fuel is furnished
18 at the time and in the manner prescribed by the ~~Director~~ Secretary of the
19 Department of Finance and Administration;

20
21 SECTION 3855. Arkansas Code § 26-55-207(4), concerning tax exemptions,
22 is amended to read as follows:

23 (4) The sale of motor fuel for use in propelling airplanes,
24 provided that satisfactory proof is furnished in the manner prescribed by the
25 ~~director~~ secretary that the motor fuel is to be used in the propelling of
26 airplanes.

27
28 SECTION 3856. Arkansas Code § 26-55-213(a), concerning a distributor's
29 license, requirements, and the penalty for noncompliance, is amended to read
30 as follows:

31 (a) It shall be unlawful for any distributor to receive, use, sell, or
32 distribute any motor fuel or to engage in business within this state unless
33 the distributor is the holder of an uncanceled license issued by the
34 ~~Director~~ Secretary of the Department of Finance and Administration to engage
35 in the business or, if the distributor is an agent, commission or otherwise,
36 of a distributor as defined in this subchapter, unless the agent is the

1 holder of a certified duplicate copy of an uncanceled license issued by the
2 ~~director~~ secretary to the agent's principal.

3
4 SECTION 3857. The introductory language of Arkansas Code § 26-55-
5 214(a), concerning a distributor's license, application, and bond, is amended
6 to read as follows:

7 (a) To procure a distributor's license, every distributor shall file
8 with the ~~Director~~ Secretary of the Department of Finance and Administration
9 an application upon oath and in a form prescribed by the ~~director~~ secretary,
10 setting forth:

11
12 SECTION 3858. Arkansas Code § 26-55-214(b)(1), concerning a
13 distributor's license, application, and bond, is amended to read as follows:

14 (b)(1) Concurrent with the filing of an application for a
15 distributor's license, every distributor shall file with the ~~director~~
16 secretary a bond of the character stipulated and in the amount provided for
17 in § 26-55-222.

18
19 SECTION 3859. Arkansas Code § 26-55-214(c), concerning a distributor's
20 license, application, and bond, is amended to read as follows:

21 (c) The ~~director~~ secretary shall keep and file all applications and
22 bonds with an alphabetical index together with a record of all licensed
23 distributors.

24
25 SECTION 3860. Arkansas Code § 26-55-215 is amended to read as follows:
26 26-55-215. Distributor's license – Issuance of certificate.

27 The application in proper form having been accepted for filing, the
28 bond having been accepted and approved, and the other conditions and
29 requirements of §§ 26-55-213 and 26-55-214 having been complied with, the
30 ~~Director~~ Secretary of the Department of Finance and Administration shall
31 issue to the distributor a license certificate to transact business as a
32 distributor in the State of Arkansas.

33
34 SECTION 3861. Arkansas Code § 26-55-216 is amended to read as follows:
35 26-55-216. Distributor's license – Nonassignable.

36 The license certificate issued by the ~~Director~~ Secretary of the

1 Department of Finance and Administration shall not be assignable and shall be
2 valid only for the distributor in whose name it was issued.

3
4 SECTION 3862. Arkansas Code § 26-55-217(a), concerning the requirement
5 to display a distributor's license, is amended to read as follows:

6 (a) The license certificate issued by the ~~Director~~ Secretary of the
7 Department of Finance and Administration shall be displayed conspicuously in
8 the principal place of business of the distributor in the State of Arkansas.

9
10 SECTION 3863. Arkansas Code § 26-55-219 is amended to read as follows:
11 26-55-219. Distributor's license – Refusal.

12 (a) In the event that any application for a license to transact
13 business as a distributor in the State of Arkansas shall be filed by any
14 person whose license shall at any time have been cancelled for cause by the
15 ~~Director~~ Secretary of the Department of Finance and Administration, or in
16 case the ~~director~~ secretary shall be of the opinion that the application is
17 not filed in good faith or in the event that the application is filed by some
18 person as a subterfuge for the real person in interest whose license or
19 registration shall theretofore have been cancelled for cause by the ~~director~~
20 secretary, or for any other valid reason, then and in any of said events the
21 ~~director~~ secretary, after a hearing of which the applicant shall have been
22 given five (5) days' notice in writing and at which the applicant shall have
23 the right to appear in person or by counsel and present testimony, shall have
24 and is given the right and authority to refuse to issue to the person a
25 license certificate to transact business as a distributor in the State of
26 Arkansas.

27 (b) Any distributor who is aggrieved by the action of the ~~director~~
28 secretary in refusing to issue the license applied for, within thirty (30)
29 days from the time of the refusal, may appeal to the circuit court of the
30 county of the distributor's residence where the distributor shall be entitled
31 to a hearing de novo. An appeal shall lie from the circuit court to the
32 Supreme Court as in other cases now provided by law.

33
34 SECTION 3864. Arkansas Code § 26-55-221 is amended to read as follows:
35 26-55-221. Licenses – Persons other than distributors.

36 Persons, other than distributors, purchasing or otherwise acquiring

1 motor fuel in tank car, tank truck, or cargo lots for sale, distribution, or
2 use within the State of Arkansas, in the discretion of the ~~Director~~ Secretary
3 of the Department of Finance and Administration shall also be licensed as set
4 forth in §§ 26-55-213 – 26-55-220 upon compliance with the provisions of §§
5 26-55-213 – 26-55-220 and thereupon shall be deemed to be the distributor for
6 all purposes of this subchapter with respect to the motor fuel received while
7 the license remains unrevoked.

8
9 SECTION 3865. Arkansas Code § 26-55-222 is amended to read as follows:
10 26-55-222. Bonds – Requirement – Amounts – Waiver.

11 (a)(1) Every distributor shall file with the ~~Director~~ Secretary of the
12 Department of Finance and Administration a surety bond of not less than one
13 and one-half ($1\frac{1}{2}$) times or one hundred fifty percent (150%) of the prior six
14 (6) months average motor fuel tax due, based upon the gallonage of motor fuel
15 to be sold or distributed as shown by the application for a permit if the
16 applicant has not heretofore been engaged in the business of a distributor as
17 herein defined, or as shown by sales for the previous year if the applicant
18 theretofore has been engaged in the business in this state.

19 (2) However, no bond shall be filed for less than one thousand
20 dollars (\$1,000).

21 (3) If the ~~director~~ secretary deems it necessary to protect the
22 state in the collection of gasoline taxes, the ~~director~~ secretary may require
23 any distributor to post a bond in an amount up to three (3) times or three
24 hundred percent (300%) of the prior six (6) months average motor fuel tax
25 due.

26 (b)(1) Provided further, the ~~director~~ secretary or the ~~director's~~
27 secretary's authorized agent is authorized to waive the posting of bond by
28 any licensed motor fuel distributor that is organized and operating under the
29 laws of Arkansas and that is wholly owned by residents of this state and who
30 has been licensed for a period of at least three (3) years and who has not
31 been delinquent in remitting motor fuel taxes during the three-year period
32 immediately preceding application by the distributor for waiver of bond.

33 (2) If any motor fuel distributor whose bond has been waived by
34 the ~~director~~ secretary or the ~~director's~~ secretary's agent as authorized in
35 this subsection subsequently becomes delinquent in remitting motor fuel taxes
36 to the ~~director~~ secretary, the ~~director~~ secretary or the ~~director's~~

1 secretary's agent may require that the distributor post a bond in the amount
2 required in this section, and the distributor shall not be eligible to
3 petition for a waiver of bond for a period of three (3) years thereafter.
4

5 SECTION 3866. Arkansas Code § 26-55-223 is amended to read as follows:

6 26-55-223. Bonds – Deposit or pledge of government obligations as
7 alternative.

8 In lieu of furnishing a bond executed by a surety company, as
9 hereinbefore provided, any distributor may furnish the distributor's bond or
10 bonds not so executed, if the distributor concurrently therewith deposits and
11 pledges with the ~~Director~~ Secretary of the Department of Finance and
12 Administration direct obligations of the United States or obligations of any
13 agency of the United States fully guaranteed by it or bonds of the State of
14 Arkansas of equal full amount to the amount of the bond required by § 26-55-
15 222, as collateral security for the payment of the bonds.
16

17 SECTION 3867. Arkansas Code § 26-55-224 is amended to read as follows:

18 26-55-224. Bonds – Additional bonds – Conditions for requirement.

19 (a) In the event that upon a hearing, of which the distributor shall
20 be given five (5) days' notice in writing, the ~~Director~~ Secretary of the
21 Department of Finance and Administration shall decide that the amount of the
22 existing bond is insufficient to ensure payment to the State of Arkansas of
23 the amount of the tax and any penalties and interest for which the
24 distributor is or may at any time become liable, then the distributor upon
25 the written demand of the ~~director~~ secretary shall immediately file an
26 additional bond in the same manner and form with a surety company thereon
27 approved by the ~~director~~ secretary in any amount determined by the ~~director~~
28 secretary to be necessary to secure at all times the payment by the
29 distributor to the State of Arkansas of all taxes, penalties, and interest
30 due under the provisions of this subchapter.

31 (b) If the distributor fails to do so, the ~~director~~ secretary shall
32 immediately cancel the license certificate of the distributor.
33

34 SECTION 3868. Arkansas Code § 26-55-225 is amended to read as follows:

35 26-55-225. Bonds – New bonds – Conditions for requirement.

36 (a) In the event that liability upon the bond thus filed by the

1 distributor with the ~~Director~~ Secretary of the Department of Finance and
2 Administration shall be discharged or reduced, whether by judgment rendered,
3 payment made, or otherwise, or if in the opinion of the ~~director~~ secretary
4 any surety on the bond theretofore given shall have become unsatisfactory or
5 unacceptable, then the ~~director~~ secretary may require the distributor to file
6 a new bond with a satisfactory surety in the same form and amount, failing
7 which the ~~director~~ secretary shall immediately cancel the license certificate
8 of said distributor.

9 (b) If the new bond is furnished by the distributor as above provided,
10 the ~~director~~ secretary shall cancel and surrender the bond of the distributor
11 for which the new bond shall be substituted.

12
13 SECTION 3869. Arkansas Code § 26-55-226 is amended to read as follows:
14 26-55-226. Bonds – Release or discharge of surety.

15 (a)(1) Any surety on any bond furnished by a distributor as provided
16 in §§ 26-55-222 – 26-55-225 shall be released and discharged from any and all
17 liability to the State of Arkansas accruing on the bond after the expiration
18 of sixty (60) days from the date upon which the surety shall have lodged with
19 the ~~Director~~ Secretary of the Department of Finance and Administration
20 written request to be released and discharged.

21 (2) However, the request shall not operate to relieve, release,
22 or discharge the surety from any liability already accrued, or which shall
23 accrue, before the expiration of the sixty-day period.

24 (b)(1) The ~~director~~ secretary shall promptly on receipt of notice of
25 the request notify the distributor who furnished the bond, and unless the
26 distributor on or before the expiration of the sixty-day period files with
27 the ~~director~~ secretary a new bond with a surety company satisfactory to the
28 ~~director~~ secretary in the amount and form provided in § 26-55-222, the
29 ~~director~~ secretary shall immediately cancel the license of the distributor.

30 (2) If the new bond is furnished by the distributor as provided
31 above, the ~~director~~ secretary shall cancel and surrender the bond of the
32 distributor for which the new bond shall be substituted.

33
34 SECTION 3870. Arkansas Code § 26-55-229(a) and (b), concerning tax
35 reports, are amended to read as follows:

36 (a) For the purpose of determining the amount of the tax imposed by

1 this subchapter, the ~~Director~~ Secretary of the Department of Finance and
2 Administration may require such supporting documents as the ~~director~~
3 secretary may deem necessary to assure accurate reporting.

4 (b)(1) The reports shall be filed on forms prescribed by the ~~director~~
5 secretary and shall be filed with the ~~director~~ secretary on or before the
6 twenty-fifth day of each calendar month following the reporting month in
7 question.

8 (2) Once a distributor has become liable to file a monthly
9 report with the ~~director~~ secretary, the distributor must continue to file a
10 monthly report, even though no tax is due, until such time as the distributor
11 notifies the ~~director~~ secretary in writing that the distributor is no longer
12 liable for monthly reports.

13
14 SECTION 3871. Arkansas Code § 26-55-229(c)(4) and (5), concerning tax
15 reports, are amended to read as follows:

16 (4) An itemized statement of the number of gallons of motor fuel
17 sold by the distributor during the preceding calendar month and exempted from
18 the tax by § 26-55-207(1)-(4), separately itemizing the amount of motor fuel
19 sold and claimed to be exempt under each of the subdivisions (1)-(4) of § 26-
20 55-207, and the statement shall furnish such information relating to such
21 sales as shall be required by the ~~director~~ secretary and reasonably necessary
22 to the enforcement by the ~~director~~ secretary of the provisions of this
23 subchapter;

24 (5) An itemized statement of the number of gallons of motor fuel
25 sold by the distributor within a border rate area and at the border rate tax,
26 as is permitted by §§ 26-55-210 and 26-55-212, together with such information
27 relating to such sales as shall be required by the ~~director~~ secretary and
28 reasonably necessary to the enforcement by the ~~director~~ secretary of the
29 provisions of this subchapter;

30
31 SECTION 3872. The introductory language of Arkansas Code § 26-55-
32 230(a), concerning the computation and payment of taxes, is amended to read
33 as follows:

34 (a) At the time of filing of each monthly report with the ~~Director~~
35 Secretary of the Department of Finance and Administration, each distributor
36 shall pay to the ~~director~~ secretary the full amount of the motor fuel tax for

1 the next-preceding calendar month, which shall be computed as follows:

2
3 SECTION 3873. Arkansas Code § 26-55-230(c), concerning the computation
4 and payment of taxes, is amended to read as follows:

5 (c) The ~~director~~ secretary by regulation shall provide for the payment
6 and collection of the motor fuel tax when it is due but which under the terms
7 of this subchapter is not required to be remitted by a distributor.

8
9 SECTION 3874. Arkansas Code § 26-55-231 is amended to read as follows:
10 26-55-231. Failure to report or pay tax – Revocation or cancellation
11 of license.

12 (a)(1) If a distributor at any time files a false monthly report of
13 the data or information required by this subchapter or fails, refuses, or
14 neglects to file the monthly report required by this subchapter, or to pay
15 the full amount of the tax as required by this subchapter, the ~~Director~~
16 Secretary of the Department of Finance and Administration may give notice to
17 the distributor of an intention to revoke the license of the distributor.

18 (2) The distributor shall be entitled to a period of five (5)
19 days after receipt of the notice from the ~~director~~ secretary, within which to
20 apply for a hearing before the ~~director~~ secretary on the question of having
21 the distributor's license revoked. The ~~director~~ secretary shall grant a
22 hearing at such time and place as the ~~director~~ secretary may designate of
23 which the distributor shall have five (5) days' advance notice in writing.

24 (3) After the hearing, at which time the distributor shall be
25 entitled to present evidence and argument of counsel, the ~~director~~ secretary
26 shall decide whether the distributor's license shall be revoked.

27 (4)(A) Upon the issuance of an order revoking the license, the
28 distributor shall be entitled to an appeal to the circuit court in the county
29 where the distributor may do business where the question shall be tried de
30 novo.

31 (B) An appeal shall lie from the circuit court of that
32 county as in other cases provided by law.

33 (5) If the distributor fails to apply for a hearing within the
34 time set out in subdivision (a)(2) of this section, the ~~director~~ secretary
35 may forthwith cancel the license of the distributor and notify the
36 distributor of the cancellation by registered mail to the last known address

1 of the distributor appearing on the files of the ~~director~~ secretary. The
2 ~~director~~ secretary shall also notify the surety company on the distributor's
3 bond in like manner.

4 (b)(1) Upon receipt of a written request from any duly licensed
5 distributor under this subchapter to cancel the license issued to the
6 distributor, the ~~director~~ secretary shall have the power to cancel the
7 license effective sixty (60) days from the date of the receipt of the written
8 request.

9 (2) However, no license shall be cancelled upon the request of
10 any distributor unless and until the distributor prior to the date of the
11 cancellation shall have paid to the State of Arkansas all excise taxes
12 payable under the laws of the State of Arkansas, together with any and all
13 penalties, interest, and fines accruing under any of the provisions of this
14 subchapter, and unless and until the distributor shall have surrendered to
15 the ~~director~~ secretary the license certificate theretofore issued to the
16 distributor.

17 (c) If upon investigation the ~~director~~ secretary ascertains and finds
18 that any person to whom a license has been issued under this subchapter is no
19 longer engaged in the receipt, use, or sale of motor fuel as a distributor
20 and has not been so engaged for a period of sixty (60) days, the ~~director~~
21 secretary shall have the power to cancel the license by giving the person
22 thirty (30) days' notice of the cancellation mailed to the last known address
23 of the person, in which event the license certificate theretofore issued to
24 the person shall be surrendered to the ~~director~~ secretary.

25 (d) In the event that the license of any distributor shall be
26 cancelled by the ~~director~~ secretary as provided in this section and in the
27 further event that the distributor shall have paid to the State of Arkansas
28 all excise taxes due and payable by it under this subchapter, together with
29 any and all penalties accruing under any of the provisions of this
30 subchapter, then the ~~director~~ secretary shall cancel and surrender the bond
31 filed by the distributor.

32
33 SECTION 3875. Arkansas Code § 26-55-232 is amended to read as follows:
34 26-55-232. Failure to report or pay taxes promptly – Penalties.

35 (a) When any distributor fails to file its monthly report with the
36 ~~Director~~ Secretary of the Department of Finance and Administration on or

1 before the time fixed in this subchapter for the filing thereof, when the
2 distributor fails to submit the data outlined in §§ 26-55-229 and 26-55-230
3 in the monthly report, or when the distributor fails to pay to the ~~director~~
4 secretary the amount of excise taxes due to the State of Arkansas when the
5 excise taxes are payable, the distributor shall be subject to applicable
6 penalty and interest provisions of the Arkansas Tax Procedure Act, § 26-18-
7 101 et seq.

8 (b)(1) If the excise tax is not paid within sixty (60) days after the
9 date the excise tax is due, then the ~~director~~ secretary shall suspend the
10 license of the distributor.

11 (2)(A) When the ~~director~~ secretary issues a notice of proposed
12 assessment to the distributor under § 26-18-403, the ~~director~~ secretary may
13 notify the bonding company of the excise tax delinquency.

14 (B) At the end of the ten-day demand for payment period
15 that begins on the date a final assessment is issued under § 26-18-401, the
16 ~~director~~ secretary shall notify the bonding company of the excise tax
17 delinquency and declare the bond forfeited.

18
19 SECTION 3876. Arkansas Code § 26-55-234(b)(1), concerning the
20 statements and reports from persons that are not distributors, is amended to
21 read as follows:

22 (b)(1) On or before the twenty-fifth day of each calendar month on
23 forms prescribed by the ~~Director~~ Secretary of the Department of Finance and
24 Administration, the person shall report to the ~~director~~ secretary all
25 purchases or other acquisitions and sales or other disposition of motor fuel
26 during the next preceding calendar month giving a record of each tank car,
27 tank truck, or cargo lot delivered to a point within the state and of all
28 motor fuel otherwise delivered to the person.

29
30 SECTION 3877. Arkansas Code § 26-55-234(b)(2)(J), concerning the
31 statements and reports from persons that are not distributors, is amended to
32 read as follows:

33 (J) Any other additional information the ~~director~~
34 secretary may require relative to the motor fuel.

35
36 SECTION 3878. The introductory language of Arkansas Code § 26-55-

1 234(c), concerning the statements and reports from persons that are not
2 distributors, is amended to read as follows:

3 (c) On or before the twenty-fifth day of each calendar month on forms
4 prescribed by the ~~director~~ secretary, the terminal shall report to the
5 ~~director~~ secretary all purchases or other acquisitions and sales or other
6 disposition of motor fuel during the next preceding calendar month, which
7 report shall include the following:

8

9 SECTION 3879. Arkansas Code § 26-55-234(c)(4)(E), concerning the
10 statements and reports from persons that are not distributors, is amended to
11 read as follows:

12 (E) The person possessing a license from the ~~director~~
13 secretary who requested the removal of the motor fuel from that storage.

14

15 SECTION 3880. Arkansas Code § 26-55-234(d), concerning the statements
16 and reports from persons that are not distributors, is amended to read as
17 follows:

18 (d) When any person or terminal purchasing or otherwise acquiring
19 motor fuel by pipeline, in a tank car, tank truck, or cargo lot and selling
20 or otherwise disposing of the motor fuel for delivery in Arkansas and not
21 required by a provision of this subchapter to register as a distributor in
22 motor fuel, fails to submit the person's or terminal's monthly report to the
23 ~~director~~ secretary by the twenty-fifth day of each calendar month or when the
24 person or terminal fails to submit in the monthly report the data required by
25 this subchapter, the person or terminal shall be guilty of a violation and
26 shall be fined an amount not greater than one hundred dollars (\$100) for the
27 first offense and shall be fined an amount not less than one hundred dollars
28 (\$100) nor more than one thousand dollars (\$1,000) for each subsequent
29 offense.

30

31 SECTION 3881. Arkansas Code § 26-55-235(a), concerning the reports
32 from carriers transporting motor fuels, is amended to read as follows:

33 (a) Every railroad company, and every street, suburban, or interurban
34 railroad company, every pipeline company, every water transportation company,
35 and every common carrier transporting motor fuel, kerosene, or other
36 hydrocarbon products, either in interstate or in intrastate commerce, to

1 points within Arkansas, and every person transporting motor fuel or kerosene
2 by whatever manner to a point within the state from any point outside of the
3 state shall report under oath to the ~~Director~~ Secretary of the Department of
4 Finance and Administration, on forms prescribed by the ~~director~~ secretary,
5 all deliveries of motor fuel, kerosene, or other hydrocarbon products, so
6 made to points within Arkansas.

7
8 SECTION 3882. Arkansas Code § 26-55-235(c), concerning the reports
9 from carriers transporting motor fuels, is amended to read as follows:

10 (c) The reports shall also show such additional information relative
11 to shipments of motor fuel as the ~~director~~ secretary may require.

12
13 SECTION 3883. Arkansas Code § 26-55-236 is amended to read as follows:
14 26-55-236. Failure to file reports, statements, or returns –
15 Falsification – Penalties.

16 Upon conviction, a person who refuses or neglects to make any
17 statement, report, or return required by this subchapter or who knowingly
18 makes, aids, or assists another person in making a false statement in a
19 return or report required by this subchapter to the ~~Director~~ Secretary of the
20 Department of Finance and Administration is guilty of an unclassified
21 misdemeanor and shall be punished by a fine of not less than one thousand
22 dollars (\$1,000) nor more than ten thousand dollars (\$10,000) or imprisonment
23 for a term of not less than thirty (30) days and not more than one (1) year,
24 or both fine and imprisonment.

25
26 SECTION 3884. Arkansas Code § 26-55-239 is amended to read as follows:

27 26-55-239. Forms for reports or records.

28 The ~~Director~~ Secretary of the Department of Finance and Administration
29 shall have the authority to prescribe all forms upon which reports shall be
30 made to the ~~director~~ secretary or forms of records to be used by
31 distributors.

32
33 SECTION 3885. Arkansas Code § 26-55-240(a)(1), concerning the
34 discontinuance or transfer of a business, is amended to read as follows:

35 (a)(1) Whenever a distributor ceases to engage in business as a
36 distributor within the State of Arkansas by reason of the discontinuance,

1 sale, or transfer of the business of the distributor, it shall be the duty of
2 the distributor to notify the ~~Director~~ Secretary of the Department of Finance
3 and Administration in writing at least ten (10) days prior to the time the
4 discontinuance, sale, or transfer takes effect.

5
6 SECTION 3886. Arkansas Code § 26-55-240(b)(2), concerning the
7 discontinuance or transfer of a business, is amended to read as follows:

8 (2) It shall be the duty of any distributor concurrently with
9 the discontinuance, sale, or transfer to make a report and pay all taxes,
10 interest, and penalties, and to surrender to the ~~director~~ secretary the
11 license certificate theretofore issued to the distributor by the ~~director~~
12 secretary.

13
14 SECTION 3887. Arkansas Code § 26-55-240(c), concerning the
15 discontinuance or transfer of a business, is amended to read as follows:

16 (c) Unless the notice provided for in subsection (a) of this section
17 shall have been given to the ~~director~~ secretary as provided in subsection (a)
18 of this section, the purchaser or transferee shall be liable to the State of
19 Arkansas for the amount of all taxes, penalties, and interest under this
20 subchapter accrued against any distributor selling or transferring the
21 distributor's business, on the date of the sale or transfer but only to the
22 extent of the value of the property and business acquired from the
23 distributor.

24
25 SECTION 3888. Arkansas Code § 26-55-241(b), concerning unpaid taxes,
26 liens on property, and enforcement, is amended to read as follows:

27 (b)(1) The lien may be enforced by the ~~Director~~ Secretary of the
28 Department of Finance and Administration by filing a certificate of
29 indebtedness as provided for in § 26-18-701 or by any other legal means.

30 (2) The action of the ~~director~~ secretary in attempting to
31 collect the delinquent taxes by issuing the certificate of indebtedness shall
32 not be construed to be an election of remedies.

33
34 SECTION 3889. The introductory language of Arkansas Code § 26-55-
35 242(a), concerning the sale of a distributor's property and the certificate
36 of lien, is amended to read as follows:

1 (a) Neither the sheriff of any county where the property affected is
2 situated nor any receiver, assignee, or other officer shall sell the property
3 or franchise of any person who is a distributor without first filing with the
4 ~~Director~~ Secretary of the Department of Finance and Administration a
5 statement containing:

6
7 SECTION 3890. Arkansas Code § 26-55-242(b) and (c), concerning the
8 sale of a distributor's property and the certificate of lien, are amended to
9 read as follows:

10 (b) It shall be the duty of the ~~director~~ secretary, after receiving
11 notice as provided in subsection (a) of this section, to furnish to the
12 sheriff, receiver, assignee, or other officer having charge of the sale,
13 certified copies of all motor fuel tax, penalties, and interest on file as
14 liens against the person and, in the event that there are no liens, a
15 certificate showing that fact. The certified copies of the certificate shall
16 be publicly read by that officer at and immediately before the sale of the
17 property or franchise of the person.

18 (c) It shall be the duty of the ~~director~~ secretary to furnish to any
19 person applying therefor a certificate showing the amount of all liens for
20 motor fuel tax, penalties, and interest that may be in the files of the
21 ~~director~~ secretary against any person under the provisions of this
22 subchapter.

23
24 SECTION 3891. Arkansas Code § 26-55-245 is amended to read as follows:

25 26-55-245. Refunds – Taxes erroneously or illegally collected – Lost
26 fuel.

27 (a) In the event it appears to the ~~Director~~ Secretary of the
28 Department of Finance and Administration that any taxes or penalties imposed
29 by this subchapter have been erroneously or illegally collected from any
30 distributor, the ~~director~~ secretary shall certify the amount thereof and
31 authorize and permit the distributor to make an equivalent deduction from the
32 distributor's next motor fuel tax payment to the State of Arkansas.

33 (b) In the event any distributor sustains a loss of motor fuel due to
34 fire, flood, storm, theft, or other causes beyond the distributor's control
35 other than through evaporation, which product has been received as defined by
36 § 26-55-202(13), the ~~director~~ secretary shall authorize and permit the

1 distributor to deduct the quantity so lost from the quantity subject to tax
2 on the motor fuel tax report filed for the month in which the loss occurred
3 or any subsequent report filed within a period of one (1) year. However, the
4 same loss may be allowed only one (1) time.

5 (c)(1) Before the ~~director~~ secretary shall certify or authorize any
6 distributor to make any deduction or take any credit on its reports on
7 account of any tax having been erroneously or illegally collected or on
8 account of any loss as provided in subsections (a) and (b) of this section,
9 satisfactory evidence, upon such forms and in such a manner as shall be
10 prescribed by the Revenue Division of the Department of Finance and
11 Administration, shall be submitted to the supervisor of the Motor Fuel Tax
12 Section of the Department of Finance and Administration, who shall determine
13 from the evidence if any deduction or credit is to be allowed.

14 (2) Thereupon the supervisor of the section shall transmit to
15 the ~~director~~ secretary his or her certificate of approval, and the ~~director~~
16 secretary may in his or her discretion allow the deduction or credit in the
17 amount the ~~director~~ secretary thinks proper or may reject the deduction or
18 credit altogether.

19 (3) The rejection or confirmation of the deduction or credit
20 shall be final, and upon the confirmation by the ~~director~~ secretary, the
21 deduction or credit shall then be allowed in due course by the supervisor of
22 the section.

23

24 SECTION 3892. Arkansas Code § 26-55-247 is amended to read as follows:

25 26-55-247. Confiscation and sale of equipment of persons transporting
26 motor fuel unlawfully.

27 (a) Any person who knowingly transports or causes to be transported
28 any motor fuel in any manner in violation of the provisions of this
29 subchapter in addition to other penalties and punishment provided for in this
30 subchapter shall be subject to the immediate confiscation of the tank truck
31 or vehicle and the contents therein which are thus unlawfully transported, by
32 the ~~Director~~ Secretary of the Department of Finance and Administration or the
33 ~~director's~~ secretary's agents.

34 (b) Unless the operator or owner of the tank truck or vehicle can
35 prove to the satisfaction of the ~~director~~ secretary at a hearing for that
36 purpose within ten (10) days that the motor fuel was being transported,

1 transferred, or delivered in accordance with this subchapter or any other act
2 affecting the transportation of motor fuel, and in accordance with any
3 regulations issued pursuant to this subchapter or any other act, the tank
4 truck or vehicle and the contents therein shall be sold by the ~~director~~
5 secretary at auction without any recourse or liability on the ~~director~~
6 secretary or any of the ~~director's~~ secretary's agents or the State of
7 Arkansas.

8
9 SECTION 3893. Arkansas Code § 26-55-249 is amended to read as follows:
10 26-55-249. Public inspection of records.

11 The records of the ~~Director~~ Secretary of the Department of Finance and
12 Administration pertaining to motor fuel taxes shall at all reasonable times
13 be open to the inspection of the public with the approval of the ~~director~~
14 secretary.

15
16 SECTION 3894. Arkansas Code § 26-55-250 is amended to read as follows:
17 26-55-250. Exchange of information among states.

18 The ~~Director~~ Secretary of the Department of Finance and Administration
19 upon request duly received from the officials to whom are intrusted the
20 enforcement of the motor fuel tax laws of any other state shall forward to
21 the officials any information which the ~~director~~ secretary may have in his or
22 her possession relative to the manufacture, receipt, sale, use,
23 transportation, or shipment by any person of motor fuel.

24
25 SECTION 3895. Arkansas Code § 26-55-403 is amended to read as follows:
26 26-55-403. ~~Director's powers~~ Authority of secretary.

27 The ~~Director~~ Secretary of the Department of Finance and Administration
28 shall have the authority to make, amend, and enforce regulations, to subpoena
29 witnesses and documents, to administer oaths, and to do and perform all other
30 acts the ~~director~~ secretary shall deem necessary to carry out the purpose and
31 intent of this subchapter.

32
33 SECTION 3896. Arkansas Code § 26-55-405 is amended to read as follows:
34 26-55-405. Refund permits.

35 (a) No person, firm, or corporation shall secure a refund of tax under
36 this subchapter unless that person is the holder of an unrevoked permit

1 issued by the ~~Director~~ Secretary of the Department of Finance and
2 Administration before the purchase of the motor fuel.

3 (b) The permit shall be numbered and issued annually and shall entitle
4 the holder to make application for refund under this subchapter.

5 (c) Applications for the permits shall be filed with the ~~director~~
6 secretary on forms prescribed by the ~~director~~ secretary and shall contain the
7 same information, so far as applicable, as is required in § 26-55-305
8 [repealed], and such other information as the ~~director~~ secretary may require.
9

10 SECTION 3897. Arkansas Code § 26-55-406 is amended to read as follows:

11 26-55-406. Applications for refund.

12 Applications for refund pursuant to this subchapter shall be sworn to
13 and shall be made to the ~~Director~~ Secretary of the Department of Finance and
14 Administration and shall be in the same form and contain the same
15 information, so far as applicable, as is required in § 26-55-301 et seq.
16 [repealed], and in addition, shall contain such other information as may be
17 required by the ~~director~~ secretary.
18

19 SECTION 3898. Arkansas Code § 26-55-408 is amended to read as follows:

20 26-55-408. Dealers' and sellers' records and reports.

21 Dealers and sellers of motor fuel shall keep the same records and shall
22 prepare the same invoices and make the same reports to the ~~Director~~ Secretary
23 of the Department of Finance and Administration with respect to motor fuel
24 sold to permit holders under this subchapter as is required by § 26-55-301 et
25 seq. [repealed], with respect to agricultural motor fuel sales.
26

27 SECTION 3899. Arkansas Code § 26-55-604 is amended to read as follows:

28 26-55-604. Rules and regulations – Audit assistance.

29 The Director of State Highways and Transportation shall prescribe and
30 promulgate rules and regulations necessary for the proper enforcement of this
31 subchapter with the advice of the Legislative Council, and in any audits
32 conducted by the Arkansas Department of Transportation relating to the Motor
33 Fuel Tax Law, § 26-55-201 et seq., or the Special Motor Fuels Tax Law, § 26-
34 56-101 et seq., or this subchapter or other pertinent laws, may call upon the
35 ~~Director~~ Secretary of the Department of Finance and Administration for
36 assistance.

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SECTION 3900. Arkansas Code § 26-55-605(a)(1), concerning the import/export load permit required and exceptions, is amended to read as follows:

(1) Being a supplier or distributor, licensed by the ~~Director~~ Secretary of the Department of Finance and Administration under the laws of the State of Arkansas, as those terms are defined in the Motor Fuel Tax Law, § 26-55-201 et seq., and the Special Motor Fuels Tax Law, § 26-56-101 et seq.; and

SECTION 3901. Arkansas Code § 26-55-608(b), concerning the authority of the Arkansas Highway Police Division of the Arkansas Department of Transportation to stop, investigate, and impound vehicles, is amended to read as follows:

(b) If after the examination or investigation it is determined that the transporter should have secured an import/export load permit as required by this subchapter, but has failed to secure that permit, the enforcement officer shall immediately cause the offending vehicle and its operator to be removed to the nearest Arkansas Department of Transportation property, port of entry, or any designated location where the ~~Director~~ Secretary of the Department of Finance and Administration's representative shall immediately assess the tax on that load together with the penalty provided in § 26-55-609 against the person found to be responsible for the payment of the tax.

SECTION 3902. Arkansas Code § 26-55-705 is amended to read as follows:
26-55-705. License required – Application.

(a) Before any person, firm, or corporation subject to § 26-55-702 imports for use on the highways of this state gasoline in the fuel supply tanks of any motor vehicle, or in any other container, with a gross loaded weight of twenty-six thousand one pounds (26,001 lbs.) or more, the person shall file application for and obtain a license from the ~~Director~~ Secretary of the Department of Finance and Administration.

(b) The application required by this section shall be verified by affidavit and filed on a form prescribed and furnished by the ~~director~~ secretary, stating the name, address, kind of business of the applicant, the applicant's principal place of business, and such other relevant information

1 as the ~~director~~ secretary may require.

2 (c) The applications must also contain, as a condition to the issuance
3 of the license, an agreement by the applicant to comply with the requirements
4 of the subchapter and the lawful rules and regulations of the ~~director~~
5 secretary.

6
7 SECTION 3903. Arkansas Code § 26-55-706 is amended to read as follows:
8 26-55-706. Bond of applicant.

9 (a) Before any license application shall be approved by the ~~Director~~
10 Secretary of the Department of Finance and Administration, the applicant
11 shall file a bond, with surety satisfactory to the ~~director~~ secretary,
12 payable to the State of Arkansas and conditioned upon the applicant's
13 compliance with the provisions of this subchapter and the rules and
14 regulations of the ~~director~~ secretary.

15 (b)(1) The bond shall be in the sum of not less than five hundred
16 dollars (\$500) and not more than twenty thousand dollars (\$20,000), the
17 amount to be fixed in each case by the ~~director~~ secretary.

18 (2) However, the amount of any bond may be increased or
19 decreased within the foregoing limits by the ~~director~~ secretary at any time.

20 (c) No bond shall be cancelled by the surety thereon until the
21 expiration of sixty (60) days after receipt of notice of the cancellation by
22 the ~~director~~ secretary, and the cancellation shall have no retroactive
23 effect.

24

25 SECTION 3904. Arkansas Code § 26-55-707(a), concerning licenses,
26 issuance, and terms and conditions, is amended to read as follows:

27 (a) Upon approval of the application and bond, the ~~Director~~ Secretary
28 of the Department of Finance and Administration shall issue to the applicant
29 a nontransferable fuel user's license bearing a distinctive number, to remain
30 in full force until surrendered, suspended, or cancelled in the manner
31 provided in this subchapter.

32

33 SECTION 3905. Arkansas Code § 26-55-708 is amended to read as follows:
34 26-55-708. Registration of licensee's motor vehicles.

35 (a)(1) Before any motor vehicle with a gross loaded weight of twenty-
36 six thousand one pounds (26,001 lbs.) or more is operated on the public

1 highways of this state, the operation of which is subject to the tax levied
2 by this subchapter, the ~~Director~~ Secretary of the Department of Finance and
3 Administration shall issue to each permitted gasoline, diesel, and liquefied
4 petroleum gas user a distinctive marking to be prominently displayed on the
5 passenger door of each vehicle traveling the public highways within this
6 state.

7 (2) This marking shall be a nontransferable marking which shall
8 be renewed on an annual basis.

9 (b) Applications for gasoline, diesel, and liquefied petroleum gas
10 users' permits must be on a form prescribed and furnished by the ~~director~~
11 secretary, to include such relevant information as deemed necessary by the
12 ~~director~~ secretary, for the proper administration of this subchapter.

13 (c) The ~~director~~ secretary shall maintain a record of the quantity of
14 markings issued each permitted user.

15

16 SECTION 3906. Arkansas Code § 26-55-710(a)(1), concerning quarterly
17 mileage reports and tax computation, is amended to read as follows:

18 (a)(1) Every person, firm, or corporation licensed under this
19 subchapter on or before the last day of the month following the end of each
20 calendar quarter shall file with the ~~Director~~ Secretary of the Department of
21 Finance and Administration, on forms prescribed by the ~~director~~ secretary, a
22 report showing the quantities of gasoline purchased and used in this state
23 during the preceding calendar quarter, together with payment of the tax due
24 thereon.

25

26 SECTION 3907. Arkansas Code § 26-55-710(b), concerning quarterly
27 mileage reports and tax computation, is amended to read as follows:

28 (b) If it shall be determined by the quarterly reports filed with the
29 ~~director~~ secretary that the interstate user has used more gallons of gasoline
30 in this state than the gasoline tax due thereon has been paid, the interstate
31 user shall remit to the ~~director~~ secretary an excise tax of eighteen and one-
32 half cents (18½¢) per gallon on the gasoline.

33

34 SECTION 3908. Arkansas Code § 26-55-710(g)(3), concerning quarterly
35 mileage reports and tax computation, is amended to read as follows:

36 (3) An interstate user who had a total tax liability for motor

1 fuel taxes during the previous calendar year of less than one hundred dollars
2 (\$100) upon application to the ~~director~~ secretary may obtain permission to
3 report the interstate user's motor fuel tax liability on an annual basis. The
4 annual report shall be due on or before the last day of the month following
5 the end of each fiscal year.

6
7 SECTION 3909. Arkansas Code § 26-55-710(h), concerning quarterly
8 mileage reports and tax computation, is amended to read as follows:

9 (h) The ~~director~~ secretary shall prescribe the appropriate forms
10 necessary for the administration of this subchapter. The ~~director~~ secretary
11 may make appropriate rules and regulations necessary to ensure the accurate
12 reporting of mileage traveled and gallons used and purchased by the licensed
13 interstate users.

14
15 SECTION 3910. Arkansas Code § 26-55-713(a), concerning claims for
16 refunds by nonbonded users, is amended to read as follows:

17 (a) Claims for refunds of motor fuel taxes by nonbonded users of motor
18 fuel or claims for credits for motor fuel taxes shall not be valid unless
19 properly presented upon motor fuel tax forms as promulgated by and as
20 required by the ~~Director~~ Secretary of the Department of Finance and
21 Administration.

22
23 SECTION 3911. Arkansas Code § 26-55-713(b)(1), concerning claims for
24 refunds by nonbonded users, is amended to read as follows:

25 (b)(1) The ~~director~~ secretary may assess and charge a fee upon all
26 forms furnished by the Revenue Division of the Department of Finance and
27 Administration when those forms pertain to the motor fuel tax laws of this
28 state.

29
30 SECTION 3912. Arkansas Code § 26-55-713(c), concerning claims for
31 refunds by nonbonded users, is amended to read as follows:

32 (c) The ~~director~~ secretary shall not furnish forms for cash refunds or
33 credits for motor fuel taxes to nonbonded users of motor fuel unless and
34 until the General Assembly provides by law for the issuance of credits and
35 cash refunds to nonbonded users of motor fuel who qualify for the credits or
36 cash refunds or motor fuel taxes.

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SECTION 3913. Arkansas Code § 26-55-714(a)(1), concerning interstate users and tax refund procedures, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Finance and Administration shall quarterly determine the amount estimated to be necessary to pay refunds to interstate users of motor fuels who are entitled to refunds with respect to a portion of the motor fuel taxes paid in this state as authorized in § 26-55-710, and upon certification by the ~~director~~ secretary, the Treasurer of State shall transfer from the gross amount of motor fuel taxes collected each month the amount so certified and shall credit it to the Interstate Motor Fuel Tax Refund Fund, which is established on the books of the State Treasury, from which the Department of Finance and Administration shall make refunds as provided by law.

SECTION 3914. Arkansas Code § 26-55-714(c), concerning interstate users and tax refund procedures, is amended to read as follows:

(c) Neither the ~~director~~ secretary nor any member or employee of the department shall be held personally liable for making any refund by reason of a fraudulent claim being filed as a basis for that refund.

SECTION 3915. The introductory language of Arkansas Code § 26-55-714(d), concerning interstate users and tax refund procedures, is amended to read as follows:

(d) The ~~director~~ secretary is authorized to promulgate rules and regulations and to prescribe the necessary forms required for the administration of claims for tax refunds from interstate users of motor fuels in this state as authorized by law, which rules and regulations shall be in conformance with the following requirements:

SECTION 3916. Arkansas Code § 26-55-714(d)(1) and (2), concerning interstate users and tax refund procedures, are amended to read as follows:

(1) The ~~director~~ secretary shall first determine with respect to each refund claim filed that the bond of the interstate user is adequate to compensate the State of Arkansas for any losses with respect to the recovery of any refunds illegally claimed by the interstate user, and the ~~director~~ secretary may require the increase of the bond if the ~~director~~ secretary

1 determines it to be inadequate before approving any claim for refund;

2 (2) Each interstate user of motor fuels claiming refunds shall
3 maintain adequate records to substantiate each claim for refund, and the
4 ~~director~~ secretary may reject any claim for refund if the ~~director~~ secretary
5 determines the applicant has not maintained adequate records or has not
6 conformed to the rules and regulations of the department in filing the claim;

7
8 SECTION 3917. Arkansas Code § 26-55-719 is amended to read as follows:
9 26-55-719. Records – Preservation – Inspection.

10 (a) Each person, firm, or corporation subject to this subchapter must
11 maintain and keep for a period of three (3) years records of mileage traveled
12 by vehicles operated in this state, together with inventories, withdrawals,
13 purchases supported by invoices, and all relevant records and papers that may
14 be required by the ~~Director~~ Secretary of the Department of Finance and
15 Administration.

16 (b) The ~~director~~ secretary or his or her authorized representative
17 shall be entitled to inspect these records at any time.

18
19 SECTION 3918. Arkansas Code § 26-55-803(a) and (b), concerning the
20 requirement for entry slips and the computation taxes, are amended to read as
21 follows:

22 (a) All licensed motor fuel user and distillate special fuel user out-
23 of-state trucks with a gross loaded weight of twenty-six thousand one pounds
24 (26,001 lbs.) or more entering the State of Arkansas at the point of entry
25 shall secure a copy of an entry slip from the ~~Director~~ Secretary of the
26 Department of Finance and Administration or his or her authorized agent or
27 employee.

28 (b) The entry slip shall be signed by the ~~director~~ secretary or his or
29 her authorized agent or employee, and the entry slip shall also be signed by
30 the driver of the vehicle.

31
32 SECTION 3919. Arkansas Code § 26-55-803(d), concerning the requirement
33 for entry slips and the computation taxes, is amended to read as follows:

34 (d) The entry slip shall remain in the vehicle for the remainder of
35 the trip over the highways of this state and shall be produced for the
36 inspection of the ~~director~~ secretary or his or her authorized employee or

1 representative, at any point within the state and shall also be produced at
2 the port of exit to the ~~director~~ secretary or his or her authorized agent or
3 employee, for determination of any fuel taxes due the state.

4
5 SECTION 3920. Arkansas Code § 26-55-804(1)(B) and (C), concerning the
6 payment of taxes, are amended to read as follows:

7 (B) At the time of the purchase of the fuel, the owner or
8 operator of the vehicle shall obtain from the dealer from whom purchased an
9 invoice or sales ticket, or forms approved by the ~~Director~~ Secretary of the
10 Department of Finance and Administration, which shall contain the name and
11 address of the seller of the fuel, the name and address of the purchaser, the
12 date of purchase, the amount or quantity and kind of fuel purchased, and the
13 invoice or sales ticket shall remain in the vehicle for the remainder of the
14 trip over the highways of this state.

15 (C) The invoice or sales ticket shall be preserved and
16 retained by the owner or operator for not less than three (3) years and shall
17 be produced for the inspection and examination of the ~~director~~ secretary or
18 his or her authorized agent or employee at any reasonable time and place,
19 either inside or outside this state, upon proper demand for the invoice or
20 sales ticket; or

21
22 SECTION 3921. Arkansas Code § 26-55-804(2), concerning the payment of
23 taxes, is amended to read as follows:

24 (2)(A) By the payment of the amount of tax which would be due
25 upon a sufficient quantity of fuel to propel the vehicle over the highways of
26 this state to the ~~director~~ secretary or to his or her agent, representative,
27 or employee.

28 (B) At the time of payment of the tax, the ~~director~~
29 secretary or his or her employee or representative shall issue to the person
30 paying the tax a receipt showing the amount of tax paid, the name and address
31 of the owner or operator of the vehicle, a description of the vehicle,
32 including the license number and state of registration, the point at which
33 the vehicle entered upon the highways of this state, the destination and the
34 place where the vehicle is to leave the highways of this state, and any other
35 information which the ~~director~~ secretary may require, which receipt shall be
36 signed by the ~~director~~ secretary or his or her agent or representative.

1 (C) The receipt shall remain in the vehicle for the
2 remainder of the trip over the highways of this state and thereafter shall be
3 preserved and retained by the owner or operator for a period of not less than
4 three (3) years, and shall be produced for the inspection of the ~~director~~
5 secretary or his or her authorized agent or representative, at any reasonable
6 time and place either within or without this state upon proper demand.

7
8 SECTION 3922. Arkansas Code § 26-55-901(1)(B), concerning vehicle tank
9 inspections, is amended to read as follows:

10 (B) Otherwise, "compartment" means any one (1) of those
11 subdivisions of a tank designed to hold petroleum products, unless otherwise
12 provided by the ~~Director~~ Secretary of the Department of Finance and
13 Administration by regulations adopted pursuant to § 26-55-903.

14
15 SECTION 3923. Arkansas Code § 26-55-1004(a)(1), concerning the
16 disposition of revenues, is amended to read as follows:

17 (a)(1) All taxes, interest, penalties, and costs received by the
18 ~~Director~~ Secretary of the Department of Finance and Administration from the
19 additional taxes and fees levied by this subchapter shall be classified as
20 special revenues and shall be deposited into the State Treasury.

21
22 SECTION 3924. Arkansas Code § 26-55-1101 is amended to read as
23 follows:

24 26-55-1101. Definition.

25 As used in this subchapter, "~~director~~ secretary" means the ~~Director~~
26 Secretary of the Department of Finance and Administration or his or her
27 authorized agent.

28
29 SECTION 3925. Arkansas Code § 26-55-1102(a), concerning the authority
30 of the Director of the Department of Finance and Administration to enter into
31 fuel tax agreements, audits not precluded, and the identification of decal
32 cost, is amended to read as follows:

33 (a) The ~~Director~~ Secretary of the Department of Finance and
34 Administration is authorized to enter into the International Fuel Tax
35 Agreement of July 1987 with jurisdictions outside this state to provide for
36 cooperation and assistance among member jurisdictions in the administration

1 and collection of taxes imposed upon the consumption of all fuels used in
2 vehicles operated or intended to operate interstate. Provided, however, that
3 the agreement shall not be effective until stated and agreed to in writing
4 and filed with the ~~director~~ secretary.

5
6 SECTION 3926. Arkansas Code § 26-55-1102(c), concerning the authority
7 of the Director of the Department of Finance and Administration to enter into
8 fuel tax agreements, audits not precluded, and the identification of decal
9 cost, is amended to read as follows:

10 (c) No agreement authorized by this subchapter shall preclude the
11 ~~director~~ secretary from auditing the records of any person subject to the
12 provisions of this chapter or the Special Motor Fuels Tax Law, § 26-56-101 et
13 seq.

14
15 SECTION 3927. Arkansas Code § 26-55-1301(1), concerning the definition
16 of "director" under the laws governing refunds and motor fuels used by fire
17 departments, is repealed.

18 ~~(1) "Director" means the Director of the Department of Finance and~~
19 ~~Administration or any of his or her deputies, employees, or agents;~~

20
21 SECTION 3928. Arkansas Code § 26-55-1303(a), concerning a refund
22 permit, is amended to read as follows:

23 (a) No fire department shall secure a refund of tax under this
24 subchapter unless the fire department is the holder of an unrevoked permit
25 which was issued by the ~~Director~~ Secretary of the Department of Finance and
26 Administration before the purchase of the motor fuel or the distillate
27 special fuel.

28
29 SECTION 3929. Arkansas Code § 26-55-1303(c), concerning a refund
30 permit, is amended to read as follows:

31 (c) An application for the permit shall be filed with the ~~director~~
32 secretary on forms prescribed by the ~~director~~ secretary and shall contain
33 such information as the ~~director~~ secretary may require.

34
35 SECTION 3930. Arkansas Code § 26-55-1303(e), concerning a refund
36 permit, is amended to read as follows:

1 (e) The refund permit of any person who violates any provision of this
2 subchapter shall be revoked by the ~~director~~ secretary and shall not be
3 reissued until two (2) years have elapsed after the date of the revocation.
4

5 SECTION 3931. The introductory language of Arkansas Code § 26-55-
6 1304(a), concerning an application for a refund, is amended to read as
7 follows:

8 (a) The refund permit holder shall file with the ~~Director~~ Secretary of
9 the Department of Finance and Administration an application for refund on
10 forms furnished by the ~~director~~ secretary which shall include, but not be
11 limited to, the following information:
12

13 SECTION 3932. Arkansas Code § 26-55-1304(a)(6), concerning an
14 application for a refund, is amended to read as follows:

15 (6) Other information as the ~~director~~ secretary shall require.
16

17 SECTION 3933. Arkansas Code § 26-55-1304(b)(2), concerning an
18 application for a refund, is amended to read as follows:

19 (2) The application shall be notarized and made to the ~~director~~
20 secretary.
21

22 SECTION 3934. Arkansas Code § 26-55-1304(d)(1), concerning an
23 application for a refund, is amended to read as follows:

24 (d)(1) The ~~director~~ secretary shall promulgate a rule establishing the
25 annual date for claiming a refund pursuant to this subchapter.
26

27 SECTION 3935. Arkansas Code § 26-55-1305(b)(1), concerning refunds
28 paid from the Gasoline Tax Refund Fund, is amended to read as follows:

29 (b)(1)(A) The ~~Director~~ Secretary of the Department of Finance and
30 Administration shall annually estimate the amount necessary to pay refunds to
31 the users of distillate special fuel who are entitled to refunds with respect
32 to distillate special fuel taxes paid in this state as authorized in this
33 subchapter.

34 (B) Upon certification by the ~~director~~ secretary, the
35 Treasurer of State shall transfer from the gross amount of distillate special
36 fuel taxes collected each month the amount so certified and shall credit the

1 amount to the fund.

2

3 SECTION 3936. Arkansas Code § 26-55-1305(e), concerning refunds paid
4 from the Gasoline Tax Refund Fund, is amended to read as follows:

5 (e) Neither the ~~director~~ secretary nor any member or employee of the
6 Department of Finance and Administration shall be held personally liable for
7 making any refund by reason of a fraudulent claim filed as a basis for the
8 refund.

9

10 SECTION 3937. Arkansas Code § 26-55-1306(a), concerning the inspection
11 of records kept by a fire department, is amended to read as follows:

12 (a) The ~~Director~~ Secretary of the Department of Finance and
13 Administration shall keep a permanent record by fire department of the amount
14 of refund claimed and paid to each claimant.

15

16 SECTION 3938. Arkansas Code § 26-55-1308 is amended to read as
17 follows:

18 26-55-1308. ~~Director's powers~~ Authority of secretary.

19 The ~~Director~~ Secretary of the Department of Finance and Administration
20 may make, amend, and enforce regulations, subpoena witnesses and documents,
21 administer oaths, and do and perform all other acts necessary to carry out
22 the purpose and intent of this subchapter.

23

24 SECTION 3939. Arkansas Code § 26-56-102(1)(F), concerning special
25 motor fuels taxes, is amended to read as follows:

26 (F) Such other information or forms as the ~~Director~~
27 Secretary of the Department of Finance and Administration by regulation may
28 adopt or require to implement the intent of this subchapter;

29

30 SECTION 3940. Arkansas Code § 26-56-102(5), concerning the definition
31 of "director" under the laws governing special motor fuels taxes, is
32 repealed.

33 ~~(5) "Director" means the Director of the Department of Finance~~
34 ~~and Administration or his or her duly authorized agents;~~

35

36 SECTION 3941. Arkansas Code § 26-56-104 is amended to read as follows:

1 26-56-104. Rules and regulations.

2 The ~~Director~~ Secretary of the Department of Finance and Administration
3 is authorized and empowered to promulgate such rules and regulations, not
4 inconsistent with this chapter, as the ~~director~~ secretary shall deem
5 necessary and desirable to facilitate the collection of the taxes levied in
6 this chapter and to otherwise effectuate the purposes of this chapter, and
7 these rules and regulations shall have the same effect as if specifically set
8 forth in this chapter.

9
10 SECTION 3942. Arkansas Code § 26-56-105(b) and (c), concerning the
11 payment of taxes by the Arkansas Department of Transportation, are amended to
12 read as follows:

13 (b) The department shall remit this tax each month to the ~~Director~~
14 Secretary of the Department of Finance and Administration who will distribute
15 the tax as outlined in this chapter.

16 (c) For purposes of computing this tax, the department shall use its
17 fuel consumption reports and shall file with the ~~director~~ secretary an
18 appropriate monthly report stating the gallons used in the department's motor
19 vehicles and the tax due and payable.

20
21 SECTION 3943. Arkansas Code § 26-56-201(b)(3), concerning the
22 imposition of taxes and exemptions, is amended to read as follows:

23 (3) Sales of distillate special fuel by a licensed supplier for
24 export from the State of Arkansas when shipped by common carrier FOB
25 destination to any other state or territory or to any foreign country, or the
26 export of distillate special fuel by a licensed supplier from the State of
27 Arkansas to any other state or territory or to any foreign country, if
28 satisfactory proof of actual exportation of all the distillate special fuel
29 is furnished at the time and in the manner prescribed by the ~~Director~~
30 Secretary of the Department of Finance and Administration;

31
32 SECTION 3944. Arkansas Code § 26-56-204(a), concerning licenses and
33 bonds for suppliers and users, is amended to read as follows:

34 (a)(1)(A) No person shall commence operations as a supplier, user, or
35 off-road consumer of distillate special fuel without first procuring a
36 license for that purpose from the ~~Director~~ Secretary of the Department of

1 Finance and Administration. The license shall be issued and remain in effect
2 until revoked as provided in this section.

3 (B)(i) Any person holding or applying for a supplier's
4 license after August 1, 1987, shall make an election to operate either as a
5 pipeline importer or first receiver. Once having made an election in writing
6 filed with the ~~director~~ secretary, the election will remain in force until
7 such time as the supplier makes another written election to change the
8 supplier's status.

9 (ii) The election and any change therein shall take
10 effect on the first month following filing of the election.

11 (iii) The ~~director~~ secretary may promulgate such
12 forms and regulations as may be necessary to ensure uniformity with federal
13 usage of exemption certificates issued for nonhighway diesel purchases.
14

15 SECTION 3945. Arkansas Code § 26-56-204(b)(2)(B), concerning licenses
16 and bonds for suppliers and users, is amended to read as follows:

17 (B) A taxable use of distillate special fuel purchased
18 tax-free by an applicant for an annual registration as a user or off-road
19 consumer, in addition to the penal provisions prescribed in this subchapter,
20 at the discretion of the ~~director~~ secretary shall forfeit the right of the
21 applicant to purchase distillate special fuel tax-free.
22

23 SECTION 3946. Arkansas Code § 26-56-204(c), concerning licenses and
24 bonds for suppliers and users, is amended to read as follows:

25 (c)(1) Every supplier shall file with the ~~director~~ secretary a surety
26 bond of not less than one and one-half ($1\frac{1}{2}$) times or one hundred fifty
27 percent (150%) of the prior six (6) months average distillate special fuel
28 tax due which is based upon the gallonage of distillate special fuel to be
29 sold or distributed as shown by the application for a license if the
30 applicant has not previously been engaged in the business of a supplier, or
31 as shown by sales for the previous year if the applicant previously has been
32 engaged in the business in this state. However, no bond shall be filed for
33 less than one thousand dollars (\$1,000).

34 (2) If the ~~director~~ secretary deems it necessary to protect the
35 state in the collection of distillate special fuel taxes, the ~~director~~
36 secretary may require any supplier to post a bond in an amount up to three

1 (3) times or three hundred percent (300%) of the prior six (6) months average
2 distillate special fuel tax due.

3 (3)(A) However, the ~~director~~ secretary is authorized to waive
4 the posting of bond by any licensed supplier organized and operating under
5 the laws of Arkansas and wholly owned by residents of this state who has been
6 licensed for a period of at least three (3) years and who has not been
7 delinquent in remitting distillate special fuel taxes during the three-year
8 period immediately preceding application by the supplier for waiver of bond.

9 (B) If any supplier whose bond has been waived by the
10 ~~director~~ secretary as authorized in subdivision (c)(3)(A) of this section,
11 subsequently becomes delinquent in remitting distillate special fuel taxes to
12 the ~~director~~ secretary, the ~~director~~ secretary may require that the supplier
13 post a bond in the amount required in this section, and the supplier shall
14 not be eligible to petition for a waiver of bond for a period of three (3)
15 years thereafter.

16
17 SECTION 3947. Arkansas Code § 26-56-204(d)(1), concerning licenses and
18 bonds for suppliers and users, is amended to read as follows:

19 (d)(1) Each application of an interstate user for a license shall be
20 accompanied by a surety bond of a surety company authorized to do business in
21 this state, in favor of the ~~director~~ secretary, satisfactory to the ~~director~~
22 secretary, and in an amount to be fixed by the ~~director~~ secretary of not less
23 than one thousand dollars (\$1,000) nor more than fifty thousand dollars
24 (\$50,000), guaranteeing the payment of any and all taxes, penalties,
25 interest, attorney's fees, and costs levied by, accrued, or accruing under
26 this subchapter.

27
28 SECTION 3948. Arkansas Code § 26-56-204(e)(2), concerning licenses and
29 bonds for suppliers and users, is amended to read as follows:

30 (2) The bond shall be conditioned upon the prompt filing of true
31 reports and the payment by the supplier or interstate user to the ~~director~~
32 secretary of any and all distillate special fuel taxes which are levied or
33 imposed by the State of Arkansas, together with any and all penalties and
34 interest thereon, and generally upon faithful compliance with the provisions
35 of this subchapter.

36

1 SECTION 3949. Arkansas Code § 26-56-204(f)-(i), concerning licenses
2 and bonds for suppliers and users, are amended to read as follows:

3 (f)(1) In the event that liability upon the bond filed pursuant to
4 this section by the supplier or interstate user with the ~~director~~ secretary
5 shall be discharged or reduced, whether by judgment rendered, payment made,
6 or otherwise, or if in the opinion of the ~~director~~ secretary any surety on
7 the bond shall have become unsatisfactory or unacceptable, then the ~~director~~
8 secretary may require the filing of a new bond with a satisfactory surety in
9 the same form and amount; failing which, the ~~director~~ secretary shall
10 immediately cancel the license of the supplier or interstate user.

11 (2) If a new bond shall be furnished, the ~~director~~ secretary
12 shall cancel the bonds for which the new bond shall be substituted.

13 (g) In the event that upon a hearing of which the supplier or
14 interstate user shall be given five (5) days' notice in writing, the ~~director~~
15 secretary shall decide that the amount of the existing bond is insufficient
16 to ensure payment to the State of Arkansas of the amount of the tax and any
17 penalties and interest for which said supplier or interstate user is or may
18 at any time become liable, then the supplier or interstate user upon written
19 demand of the ~~director~~ secretary shall immediately file an additional bond in
20 the same manner and form and with a surety company thereon approved by the
21 ~~director~~ secretary in any amount determined by the ~~director~~ secretary to be
22 necessary to secure at all times the payment to the State of Arkansas of all
23 taxes, penalties, and interest due under the provisions of this section,
24 failing which, the ~~director~~ secretary shall immediately cancel the license of
25 the supplier or interstate user.

26 (h)(1) Any surety on any bond furnished as provided in this section
27 shall be released and discharged from any and all liability to the State of
28 Arkansas accruing on the bond after the expiration of sixty (60) days from
29 the date upon which a surety shall have lodged with the ~~director~~ secretary
30 written request to be released and discharged. However, the request shall not
31 operate to relieve, release, or discharge the surety from any liability
32 already accrued or which shall accrue before the expiration of the sixty-day
33 period.

34 (2) Upon receipt of notice of the request, the ~~director~~
35 secretary shall promptly notify the supplier or interstate user who furnished
36 the bond, and unless the supplier or interstate user on or before the

1 expiration of the sixty-day period files with the ~~director~~ secretary a new
2 bond with a surety company satisfactory to the ~~director~~ secretary in the
3 amount and form as provided in this section, the ~~director~~ secretary shall
4 immediately cancel the license of that supplier or interstate user.

5 (3) If a new bond shall be furnished as provided in this
6 section, the ~~director~~ secretary shall cancel the bond for which the new bond
7 shall be substituted.

8 (i) In lieu of furnishing a bond or bonds executed by a surety company
9 as provided in this section, any supplier or interstate user may furnish a
10 bond or other instrument in a form prescribed by the ~~director~~ secretary of
11 equal, full amount to the amount of the bond or bonds required by this
12 section, which will provide security or payment of all amounts as described
13 in this section and in compliance with all provisions of this subchapter.
14

15 SECTION 3950. Arkansas Code § 26-56-204(k)(2), concerning licenses and
16 bonds for suppliers and users, is amended to read as follows:

17 (2)(A) Should his or her license be revoked, any supplier or
18 user may bring an action against the ~~director~~ secretary in the circuit court
19 of the county of his or her domicile within fifteen (15) days of the date of
20 revocation to determine whether or not the supplier or user has in fact
21 violated any of the provisions of this chapter.

22 (B) If the circuit court determines that the provisions of
23 the law have been violated by the supplier or user, it shall affirm the
24 ~~director's~~ secretary's action in revoking the license.
25

26 SECTION 3951. Arkansas Code § 26-56-208(a)(1), concerning suppliers'
27 and users' reports and the computation and remittance of taxes, is amended to
28 read as follows:

29 (a)(1) On or before the twenty-fifth day of each calendar month on
30 forms prescribed by the ~~Director~~ Secretary of the Department of Finance and
31 Administration, every supplier shall file with the ~~director~~ secretary a
32 report accounting for the distillate special fuel handled during the
33 preceding month.
34

35 SECTION 3952. Arkansas Code § 26-56-208(a)(3)(D), concerning
36 suppliers' and users' reports and the computation and remittance of taxes, is

1 amended to read as follows:

2 (D) Such other documents as the ~~director~~ secretary
3 requires.

4
5 SECTION 3953. The introductory language of Arkansas Code § 26-56-
6 208(b)(1), concerning suppliers' and users' reports and the computation and
7 remittance of taxes, is amended to read as follows:

8 (b)(1) When filing the report and paying the tax to the ~~director~~
9 secretary as required in this section, the supplier shall be entitled to
10 deduct from the total number of gallons upon which the tax levied under this
11 chapter is due, the number of gallons:

12

13 SECTION 3954. Arkansas Code § 26-56-208(c)(1), concerning suppliers'
14 and users' reports and the computation and remittance of taxes, is amended to
15 read as follows:

16 (c)(1) On forms prescribed by the ~~director~~ secretary, every pipeline
17 company, water transportation company, and common carrier transporting
18 distillate special fuel to points within Arkansas shall report under oath to
19 the ~~director~~ secretary all deliveries of distillate special fuel so made to
20 points within Arkansas.

21

22 SECTION 3955. Arkansas Code § 26-56-208(c)(2)(C), concerning
23 suppliers' and users' reports and the computation and remittance of taxes, is
24 amended to read as follows:

25 (C) The report shall also show such additional information
26 relative to a shipment of distillate special fuel as the ~~director~~ secretary
27 may require.

28

29 SECTION 3956. The introductory language of Arkansas Code § 26-56-
30 208(d)(2), concerning suppliers' and users' reports and the computation and
31 remittance of taxes, is amended to read as follows:

32 (2) On or before the twenty-fifth day of each calendar month on
33 forms prescribed by the ~~director~~ secretary, the terminal shall report to the
34 ~~director~~ secretary all purchases or other acquisitions and sales or other
35 disposition of distillate special fuel during the next-preceding calendar
36 month, which report shall include the following:

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SECTION 3957. Arkansas Code § 26-56-208(d)(2)(D)(v), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

(v) The person possessing a license from the ~~director~~ secretary who requested the removal of the distillate special fuel from that storage.

SECTION 3958. Arkansas Code § 26-56-208(d)(3), concerning suppliers' and users' reports and the computation and remittance of taxes, is amended to read as follows:

(3) When any terminal purchasing or otherwise acquiring distillate special fuel by pipeline and selling or otherwise disposing of the distillate special fuel for delivery in Arkansas and not required by a provision of this subchapter to register as a supplier in distillate special fuel, fails to submit the terminal's monthly report to the ~~director~~ secretary by the twenty-fifth day of each calendar month or when the terminal fails to submit in the monthly report the data required by this subchapter, the terminal shall be guilty of a violation and shall be fined an amount not greater than one hundred dollars (\$100) for the first offense and shall be fined an amount not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each subsequent offense.

SECTION 3959. Arkansas Code § 26-56-209(b)(2)(C)(ii), concerning required records, invoices, and the falsification of records, is amended to read as follows:

(ii) Another counterpart shall be delivered to the operator of the motor vehicle and carried in the cab compartment of the motor vehicle for inspection by the ~~Director~~ Secretary of the Department of Finance and Administration or his or her representatives until the fuel it covers has been consumed.

SECTION 3960. Arkansas Code § 26-56-209(c)(1), concerning required records, invoices, and the falsification of records, is amended to read as follows:

(c)(1) Every person who operates a motor vehicle that is equipped to

1 use motor fuels taxable under the Motor Fuel Tax Law, § 26-55-201 et seq.,
2 and distillate special fuel interchangeably in the propulsion of the motor
3 vehicle shall carry in the cab compartment of the motor vehicle for
4 inspection by the ~~director~~ secretary or his or her representative, not only
5 the counterpart of the serially-numbered invoice required under subsection
6 (b) of this section for the delivery of distillate special fuel into the fuel
7 supply tanks of the motor vehicle but also an invoice or receipt from the
8 seller for each delivery into the fuel supply tanks of the motor vehicle of
9 motor fuels taxable under the Motor Fuel Tax Law, § 26-55-201 et seq., which
10 latter invoice or receipt shall show the same information as to date of
11 delivery, quantity, speedometer or hub meter mileage, and motor vehicle
12 registration number as is required for the invoice covering distillate
13 special fuel.

14

15 SECTION 3961. Arkansas Code § 26-56-214(a), concerning interstate
16 users, reports, and the computation of taxes and refunds, is amended to read
17 as follows:

18 (a) Whenever an interstate user of distillate special fuel who is a
19 bonded user of distillate special fuel in all states in which he or she
20 operates has exportations in excess of importations of tax-paid distillate
21 special fuel in the fuel supply tanks of motor vehicles which distillate
22 special fuel was delivered by a supplier into bulk storage facilities of the
23 user within the State of Arkansas, the supplier may make a refund or allow a
24 credit for the amount of the tax upon the excess upon approval by the
25 ~~Director~~ Secretary of the Department of Finance and Administration of a
26 statement from the user to the effect that the tax-paid distillate special
27 fuel was exported.

28

29 SECTION 3962. Arkansas Code § 26-56-214(b)(2), concerning interstate
30 users, reports, and the computation of taxes and refunds, is amended to read
31 as follows:

32 (2) If it shall be determined by the quarterly report that the
33 interstate user has used distillate special fuel in this state in excess of
34 the number of gallons of the distillate special fuel upon which the Arkansas
35 tax had been paid, the interstate user shall remit to the ~~director~~ secretary,
36 at the time of filing the report, an excise tax of eighteen and one-half

1 cents (18½¢) per gallon of the excess gallonage used.

2
3 SECTION 3963. Arkansas Code § 26-56-214(c), concerning interstate
4 users, reports, and the computation of taxes and refunds, is amended to read
5 as follows:

6 (c) The quarterly report required by this subchapter shall be filed on
7 or before the last day of the month following the end of each calendar
8 quarter and shall be made on forms prescribed by the ~~director~~ secretary and
9 shall include such information as the ~~director~~ secretary may require.

10
11 SECTION 3964. Arkansas Code § 26-56-214(d)(1) and (2), concerning
12 interstate users, reports, and the computation of taxes and refunds, are
13 amended to read as follows:

14 (d)(1) For the purpose of determining whether a distillate special
15 fuel user owes tax or is entitled to a credit or refund as provided in
16 subsection (b) of this section, the distillate special fuel user shall file
17 with the ~~director~~ secretary a report showing the quantities of special motor
18 fuels used in this state during the preceding calendar quarter. This report
19 shall be due on or before the last day of the month following the end of each
20 calendar quarter.

21 (2) If it shall be determined by the quarterly report filed with
22 the ~~director~~ secretary that the distillate special fuel user has used more
23 gallons of special motor fuel in this state than the special motor fuel tax
24 due thereon has been paid, the distillate special fuel user shall remit to
25 the ~~director~~ secretary an excise tax of eighteen and one-half cents (18½¢)
26 per gallon of special motor fuel.

27
28 SECTION 3965. Arkansas Code § 26-56-214(i), concerning interstate
29 users, reports, and the computation of taxes and refunds, is amended to read
30 as follows:

31 (i)(1) The ~~director~~ secretary shall prescribe the appropriate forms
32 necessary for the administration of this subchapter.

33 (2) The ~~director~~ secretary may make appropriate rules and
34 regulations necessary to ensure the accurate reporting of the special motor
35 fuel tax.

36

1 SECTION 3966. Arkansas Code § 26-56-215(a)(1), concerning interstate
2 users and tax refund procedures, is amended to read as follows:

3 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall quarterly estimate the amount necessary to pay refunds
5 to interstate users of special motor fuels who are entitled to refunds with
6 respect to special motor fuel taxes paid in this state as authorized in § 26-
7 56-214, and upon certification by the ~~director~~ secretary, the Treasurer of
8 State shall transfer from the gross amount of special motor fuel taxes
9 collected each month the amount so certified and shall credit the amount to
10 the Interstate Motor Fuel Tax Refund Fund, which is established on the books
11 of the State Treasury, from which the Department of Finance and
12 Administration shall make refunds as provided by law.

13
14 SECTION 3967. Arkansas Code § 26-56-215(c), concerning interstate
15 users and tax refund procedures, is amended to read as follows:

16 (c) Neither the ~~director~~ secretary nor any member or employee of the
17 department shall be held personally liable for making any refund by reason of
18 a fraudulent claim being filed as a basis for the refund.

19
20 SECTION 3968. The introductory language of Arkansas Code § 26-56-
21 215(d), concerning interstate users and tax refund procedures, is amended to
22 read as follows:

23 (d) The ~~director~~ secretary is authorized to promulgate rules and
24 regulations and to prescribe the necessary forms required for the
25 administration of claims for tax refunds from interstate users of special
26 motor fuels in this state as authorized by law, which rules and regulations
27 shall be in conformance with the following requirements:

28
29 SECTION 3969. Arkansas Code § 26-56-215(d)(1) and (2), concerning
30 interstate users and tax refund procedures, are amended to read as follows:

31 (1) The ~~director~~ secretary shall first determine, with respect
32 to each refund claim filed, that the bond of the interstate user is adequate
33 to compensate the State of Arkansas for any losses with respect to the
34 recovery of any refunds illegally claimed by the interstate user, and the
35 ~~director~~ secretary may require the increase of the bond if the ~~director~~
36 secretary determines it to be inadequate before approving any claim for

1 refund;

2 (2) Each interstate user of motor fuels and special motor fuels
3 claiming refunds shall maintain adequate records to substantiate each claim
4 for refund, and the ~~director~~ secretary may reject any claim for refund if the
5 ~~director~~ secretary determines the applicant has not maintained adequate
6 records or has not conformed to the rules and regulations of the department
7 in filing the claim therefor;

8

9 SECTION 3970. Arkansas Code § 26-56-216 is amended to read as follows:
10 26-56-216. Power to stop, investigate, and impound vehicles -
11 Assessment of tax.

12 (a) In order to enforce the provisions of this subchapter, the
13 ~~Director~~ Secretary of the Department of Finance and Administration or his or
14 her authorized representative is empowered to stop any motor vehicle which
15 appears to be operating with distillate special fuel for the purpose of
16 examining the invoices and for other investigative purposes reasonably
17 necessary to determine whether the taxes imposed by this subchapter have been
18 paid, or whether the motor vehicle is being operated in compliance with the
19 provisions of this subchapter.

20 (b) If after examination or investigation it is determined by the
21 ~~director~~ secretary or his or her authorized representative that the tax
22 imposed by this subchapter has not been paid with respect to the fuels being
23 used in the motor vehicle, the ~~director~~ secretary or his or her
24 representative shall immediately assess the tax due, together with the
25 penalty hereinafter provided, to the owner of the motor vehicle, and give the
26 owner written notice of the assessment by handing it to the driver of the
27 motor vehicle.

28 (c) The ~~director~~ secretary or his or her representative is empowered
29 to impound any motor vehicle found to be operating in violation of this
30 chapter by a person other than one who has furnished the bond required of
31 users by § 26-56-204(c) until such time as any tax assessed as provided
32 herein has been paid.

33

34 SECTION 3971. Arkansas Code § 26-56-217(b)(2)(C) and (D), concerning
35 the separate storage tanks for taxable distillate special fuel and for tax-
36 free storage, are amended to read as follows:

1 (C) Each city or county shall file a report with the
2 ~~Director~~ Secretary of the Department of Finance and Administration accounting
3 for the taxable and nontaxable distillate special fuel used and miles driven
4 by each motor vehicle which requires taxable distillate special fuel in such
5 a manner, at such time, and on such forms as shall be prescribed by the
6 ~~director~~ secretary.

7 (D) The ~~director~~ secretary may promulgate regulations to
8 establish a system to periodically reconcile the taxable distillate special
9 fuel purchased and actual taxable distillate special fuel used by the city or
10 county.

11
12 SECTION 3972. Arkansas Code § 26-56-218(c), concerning bulk sales of
13 distillate special fuels, is amended to read as follows:

14 (c) When a user, dealer, or off-road consumer registration has been
15 revoked and written notice of the revocation has been received by the
16 supplier from the ~~Director~~ Secretary of the Department of Finance and
17 Administration, it shall be unlawful for the supplier to make bulk sales or
18 deliveries to the user, dealer, or off-road consumer of distillate special
19 fuel on which the tax has not been paid.

20
21 SECTION 3973. Arkansas Code § 26-56-219(b)(2), concerning cargo tank-
22 to-carburetor connection being unlawful and penalties, is amended to read as
23 follows:

24 (2) This penalty shall be assessed by the ~~Director~~ Secretary of
25 the Department of Finance and Administration or his or her representative and
26 shall be collected in the same manner as is provided for the collection of
27 tax in § 26-56-216.

28
29 SECTION 3974. Arkansas Code § 26-56-220(d)(2), concerning unlawful
30 activities regarding the operation of motor vehicles, is amended to read as
31 follows:

32 (2) This penalty shall be assessed by the ~~Director~~ Secretary of
33 the Department of Finance and Administration or his or her representative and
34 shall be collected in the same manner as is provided for the collection of
35 tax in § 26-56-216.

36

1 SECTION 3975. Arkansas Code § 26-56-224(f), concerning fuel used for
2 off-road purposes and the imposition of tax on dyed distillate special fuel,
3 is amended to read as follows:

4 (f) The excise taxes levied by subsection (b) of this section shall be
5 reported and paid on or before the twentieth day of each month by electronic
6 funds transfer as authorized pursuant to § 26-19-101 et seq. on forms to be
7 prescribed by the ~~Director~~ Secretary of the Department of Finance and
8 Administration.

9
10 SECTION 3976. The introductory language of Arkansas Code § 26-56-
11 226(a)(1), concerning the penalty for improper use of dyed distillate special
12 fuel, is amended to read as follows:

13 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
14 Administration upon finding a motor vehicle using or utilizing dyed
15 distillate special fuel for the purpose of operating that motor vehicle not
16 excepted in § 26-56-225, shall:

17
18 SECTION 3977. The introductory language of Arkansas Code § 26-56-
19 226(a)(2), concerning the penalty for improper use of dyed distillate special
20 fuel, is amended to read as follows:

21 (2) Further, if any dyed distillate special fuel is found in any
22 fuel storage tank or fuel storage facility outside of the terminal utilized
23 by the operator of that motor vehicle, or any other person, for the purpose
24 of fueling that motor vehicle, the ~~director~~ secretary shall:

25
26 SECTION 3978. Arkansas Code § 26-56-226(b)(2), concerning the penalty
27 for improper use of dyed distillate special fuel, is amended to read as
28 follows:

29 (2) The assessments shall be made against the operator or any
30 other person the ~~director~~ secretary deems responsible for the usage or
31 utilization of the dyed distillate special fuel in that motor vehicle.

32
33 SECTION 3979. The introductory language of Arkansas Code § 26-56-
34 227(b)(1), concerning mixed dyed and undyed distillate special fuel and
35 additional penalties, is amended to read as follows:

36 (b)(1) The ~~Director~~ Secretary of the Department of Finance and

1 Administration upon finding any fuel supply tank of a motor vehicle, fuel
2 storage tank, or fuel storage facility outside of the terminal containing
3 mixed dyed and undyed distillate special fuel, which fuel is being used or
4 utilized in a motor vehicle or is being stored for ultimate usage or
5 utilization in a motor vehicle not excepted in § 26-56-225 shall:

6
7 SECTION 3980. Arkansas Code § 26-56-227(b)(3), concerning mixed dyed
8 and undyed distillate special fuel and additional penalties, is amended to
9 read as follows:

10 (3) The assessments shall be made against the operator of any
11 motor vehicle, or owner or operator of the fuel storage tank or fuel storage
12 facility outside of the terminal, or any other person the ~~director~~ secretary
13 deems responsible for the usage or utilization of the distillate special fuel
14 in any motor vehicle involved in the assessment.

15
16 SECTION 3981. The introductory language of Arkansas Code § 26-56-
17 228(a)(1), concerning the authority of the Director of the Department of
18 Finance and Administration, is amended to read as follows:

19 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
20 Administration shall have the authority to:

21
22 SECTION 3982. The introductory language of Arkansas Code § 26-56-
23 228(a)(2), concerning the authority of the Director of the Department of
24 Finance and Administration, is amended to read as follows:

25 (2) The ~~director~~ secretary shall have the authority to:

26
27 SECTION 3983. Arkansas Code § 26-56-228(b)(1)(A), concerning the
28 authority of the Director of the Department of Finance and Administration, is
29 amended to read as follows:

30 (b)(1)(A) Any person who shall refuse to allow the ~~director~~ secretary
31 to sample, test, and measure the fuel that could be contained in any fuel
32 supply tank of a motor vehicle, or in any fuel storage tank, or in any fuel
33 storage facility outside of the terminal shall be assessed taxes at the total
34 per-gallon tax rates set out in this chapter upon all fuels as determined by
35 the ~~director~~ secretary that could be contained in the fuel supply tank, fuel
36 storage tank, or fuel storage facility, if filled to capacity.

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SECTION 3984. Arkansas Code § 26-56-228(b)(2)(B), concerning the authority of the Director of the Department of Finance and Administration, is amended to read as follows:

(B) The ~~director~~ secretary shall add a penalty of twenty percent (20%) of the total amount of the assessed taxes excluding the ten-dollar-per-gallon penalty to the total amount assessed for willful refusal to allow the sampling, measuring, or testing, which penalty shall be in addition to all other penalties provided in this section, this chapter, and in the Arkansas Tax Procedure Act, § 26-18-101 et seq.

SECTION 3985. Arkansas Code § 26-56-228(b)(3), concerning the authority of the Director of the Department of Finance and Administration, is amended to read as follows:

(3) The assessments shall be made against the operator of any motor vehicle, fuel storage tank, or fuel storage facility outside of the terminal involved in the assessment or against any other person the ~~director~~ secretary deems responsible for the use or utilization of the fuel in any motor vehicle involved in the assessment.

SECTION 3986. Arkansas Code § 26-56-229(a)(1), concerning multiple violations of special motor fuels taxes, is amended to read as follows:

(a)(1) In the event that assessments are made by the ~~Director~~ Secretary of the Department of Finance and Administration against the same operator or the same person for violating the provisions of § 26-56-226, § 26-56-227, or § 26-56-228 within three (3) years of any assessment made by the ~~director~~ secretary for previous violations of any of those provisions, the ~~director~~ secretary shall assess a penalty of twenty dollars (\$20.00) per gallon on all the fuel assessed, and for third and subsequent violations within a three-year period by the same operator or the same person, the ~~director~~ secretary shall assess a penalty of thirty dollars (\$30.00) per gallon on all the fuel assessed.

SECTION 3987. Arkansas Code § 26-56-231 is amended to read as follows:
26-56-231. Rules and regulations.

(a) The ~~Director~~ Secretary of the Department of Finance and

1 Administration, in consultation with the Director of State Highways and
2 Transportation, shall have the authority to make and promulgate rules and
3 regulations to fully implement and enforce the provisions of §§ 26-56-223 –
4 26-56-230.

5 (b) Provisions shall be included in the rules and regulations to allow
6 any user enumerated in § 26-56-225, upon proper notice and certification to
7 the ~~Director~~ Secretary of the Department of Finance and Administration that
8 dyed distillate special fuel is unavailable to that user at that time, to
9 utilize untaxed, undyed distillate special fuel in motor vehicles belonging
10 to the users.

11

12 SECTION 3988. The introductory language of Arkansas Code § 26-56-
13 232(a), concerning electronic reports and electronic funds transfer, is
14 amended to read as follows:

15 (a) The ~~Director~~ Secretary of the Department of Finance and
16 Administration shall make all necessary preparations in order that all
17 reports submitted ~~beginning July 1, 1997, and thereafter, or beginning before~~
18 ~~that date, if possible,~~ by:

19

20 SECTION 3989. Arkansas Code § 26-56-232(a)(4), concerning electronic
21 reports and electronic funds transfer, is amended to read as follows:

22 (4) All other persons required to submit any type of reports to
23 the ~~director~~ secretary pursuant to those tax laws, shall be submitted by
24 electronic means and to ensure that the reports shall be processed
25 electronically by the Department of Finance and Administration.

26

27 SECTION 3990. Arkansas Code § 26-56-232(b), concerning electronic
28 reports and electronic funds transfer, is amended to read as follows:

29 (b) The ~~director~~ secretary shall also make and promulgate rules and
30 regulations to ensure that the distributors, suppliers, and alternative fuel
31 suppliers, ~~beginning July 1, 1997, and thereafter, or beginning before that~~
32 ~~date, if possible,~~ remit all taxes due the state pursuant to those tax laws
33 by electronic funds transfer.

34

35 SECTION 3991. Arkansas Code § 26-56-301(b), concerning the levying and
36 imposition of tax and alternative payment of fees, is amended to read as

1 follows:

2 (b) However, in lieu of the gallonage tax levied in this section with
3 respect to liquefied gas special fuels used under this subchapter, except as
4 otherwise provided herein the ~~Director~~ Secretary of the Department of Finance
5 and Administration shall require the payment of the fees prescribed in § 26-
6 56-304 in the case of all vehicles required to obtain liquefied gas special
7 fuels user's permits under this subchapter, except licensed liquefied gas
8 special fuels suppliers.

9

10 SECTION 3992. Arkansas Code § 26-56-303(b)-(d), concerning suppliers,
11 dealers, licenses, and bonds for liquefied gas special fuel, are amended to
12 read as follows:

13 (b)(1) Application for licenses shall be filed on a form prescribed by
14 ~~Director~~ the Secretary of the Department of Finance and Administration and
15 verified by affidavit, and shall show the name, address, and kind of business
16 of the applicant, a designation of the applicant's principal place of
17 business, and such other pertinent information as the ~~director~~ secretary may
18 require.

19 (2) The application must also contain as a condition to the
20 issuance of the license an agreement under oath by the applicant to comply
21 with the requirements of this subchapter and the rules and regulations of the
22 ~~director~~ secretary.

23 (c)(1) Before an application may be approved by the ~~director~~
24 secretary, the applicant shall file a bond with surety satisfactory to the
25 ~~director~~ secretary, payable to the State of Arkansas, and conditioned upon
26 the applicant's compliance with the provisions of this subchapter and the
27 rules and regulations of the ~~director~~ secretary.

28 (2) The bond is to be in the sum of not less than five hundred
29 dollars (\$500) and not more than twenty thousand dollars (\$20,000), the
30 amount to be in each case fixed by the ~~director~~ secretary. However, the
31 amount of the bond may be increased or decreased within the aforementioned
32 limits by the ~~director~~ secretary at any time.

33 (3) No bond shall be cancelled by the sureties thereon until the
34 expiration of sixty (60) days after receipt of notice of the cancellation by
35 the ~~director~~ secretary, and the cancellation shall have no retroactive
36 effect.

1 (d) Upon approval of the application and bond, the ~~director~~ secretary
2 shall issue to the applicant a nontransferable liquefied gas special fuels
3 supplier's license or dealer's license, as the case may be, bearing a
4 distinctive number.

5
6 SECTION 3993. Arkansas Code § 26-56-303(f)(2) and (3), concerning
7 suppliers, dealers, licenses, and bonds for liquefied gas special fuel, are
8 amended to read as follows:

9 (2) The application shall be made on a form prescribed by the
10 ~~director~~ secretary showing the name, address, and the supplier or dealer
11 license number of the applicant, the location of the station or facility for
12 which the duplicate is applied, and such other pertinent information as the
13 ~~director~~ secretary may require.

14 (3) Upon approval of the application, the ~~director~~ secretary
15 shall issue to the applicant a nontransferable duplicate of the liquefied gas
16 special fuels supplier's or dealer's license.

17
18 SECTION 3994. Arkansas Code § 26-56-304(b) and (c), concerning users'
19 permits for liquefied gas special fuels, are amended to read as follows:

20 (b) The application must be made on a form prescribed by the ~~Director~~
21 Secretary of the Department of Finance and Administration, showing the name,
22 address, and user license number or supplier or dealer license number of the
23 applicant, the make, model, and motor number of the vehicle involved, the
24 type of fuel used therein, and such other pertinent information as the
25 ~~director~~ secretary may require.

26 (c) The fuel user's permit shall be obtained annually before the
27 ~~director~~ secretary shall register and issue a motor vehicle license for the
28 vehicle.

29
30 SECTION 3995. The introductory language of Arkansas Code § 26-56-
31 304(d), concerning users' permits for liquefied gas special fuels, is amended
32 to read as follows:

33 (d)(1) At the time of applying for the permit and prior to the
34 registration and issuance of a motor vehicle license for the vehicle, each
35 applicant except licensed liquefied gas special fuels suppliers shall remit
36 to the ~~director~~ secretary, in addition to the regular fee prescribed by law

1 for the registration and licensing of the vehicle, an additional fee in an
2 amount which is determined by the General Assembly, based upon information
3 available from statistical studies of the motor vehicular use of liquefied
4 gas special fuels by various classes of users, as follows:

5
6 SECTION 3996. Arkansas Code § 26-56-304(d)(2) and (3), concerning
7 users' permits for liquefied gas special fuels, is amended to read as
8 follows:

9 (2) If the ~~director~~ secretary determines that the flat fee
10 provided herein in lieu of the gallonage tax on liquefied gas special fuels
11 is, in the case of common or contract carriers or other vehicles for hire,
12 inadequate to compensate for the gallonage tax, the ~~director~~ secretary may
13 require the common or contract carriers or owners of other vehicles for hire
14 to pay a fee based upon the actual mileage of the common or contract carrier
15 or vehicle for hire for the previous year, the current year, or any other
16 reasonable basis.

17 (3) The ~~director~~ secretary shall establish regulations for
18 computing the fees and for the enforcement of the collection thereof.

19
20 SECTION 3997. Arkansas Code § 26-56-305 is amended to read as follows:

21 26-56-305. Users' permits - Transfer.

22 When a motor vehicle permitted to use liquefied gas special fuels under
23 this subchapter is altered to operate on a fuel other than liquefied gas
24 special fuels or destroyed prior to the expiration of the permit period, the
25 ~~Director~~ Secretary of the Department of Finance and Administration upon the
26 request of the motor vehicle owner within ten (10) days of the conversion or
27 destruction and the payment of a two-dollar transfer fee shall transfer the
28 permit for the remainder of the permit period to another motor vehicle
29 operating on liquefied gas special fuels owned by the person.

30
31 SECTION 3998. Arkansas Code § 26-56-306(a), concerning users' permits
32 and window decals for liquefied gas special fuel, is amended to read as
33 follows:

34 (a) The ~~Director~~ Secretary of the Department of Finance and
35 Administration shall promulgate special serially numbered window decals to be
36 issued for motor vehicles for which liquefied gas special fuels user's

1 permits are issued, except motor vehicles of licensed liquefied gas special
2 fuels suppliers, which distinctive window decals shall evidence not only the
3 registration of the motor vehicle but shall evidence the fact that the
4 special permit fee charged under § 26-56-304 has been paid.

5
6 SECTION 3999. The introductory language of Arkansas Code § 26-56-
7 308(a), concerning reports and payments of tax by suppliers of liquefied gas
8 special fuels, is amended to read as follows:

9 (a) On or before the twenty-fifth day of each calendar month next
10 following the calendar month for which the report is made, each liquefied gas
11 special fuels supplier shall report to the ~~Director~~ Secretary of the
12 Department of Finance and Administration:

13
14 SECTION 4000. Arkansas Code § 26-56-308(a)(6), concerning reports and
15 payments of tax by suppliers of liquefied gas special fuels, is amended to
16 read as follows:

17 (6) Such other information as the ~~director~~ secretary may require
18 by regulation.

19
20 SECTION 4001. Arkansas Code § 26-56-308(c), concerning reports and
21 payments of tax by suppliers of liquefied gas special fuels, is amended to
22 read as follows:

23 (c) Each liquefied gas special fuels supplier at the time of filing
24 the monthly report required by this section shall remit to the ~~director~~
25 secretary any and all taxes due on liquefied gas special fuels covered by the
26 report.

27
28 SECTION 4002. The introductory language of Arkansas Code § 26-56-309,
29 concerning reports by dealers of liquefied gas special fuels, is amended to
30 read as follows:

31 Every liquefied gas special fuels dealer on or before the twenty-fifth
32 day of the month shall monthly file a report with the ~~Director~~ Secretary of
33 the Department of Finance and Administration for the preceding calendar month
34 showing:

35
36 SECTION 4003. Arkansas Code § 26-56-310(a), concerning the

1 discontinuance of a business and the surrender of a license or permit, is
2 amended to read as follows:

3 (a) Whenever any person to whom a liquefied gas special fuels
4 supplier's license, dealer's license, or liquefied gas special fuels user's
5 permit has been issued, discontinues to supply, sell, or use liquefied gas
6 special fuels within the state, the person shall notify the ~~Director~~
7 Secretary of the Department of Finance and Administration in writing of that
8 fact within thirty (30) days thereafter and surrender his or her license or
9 permit to the ~~director~~ secretary.

10

11 SECTION 4004. Arkansas Code § 26-56-311 is amended to read as follows:
12 26-56-311. Revocation of supplier's or dealer's license.

13 (a) If a licensed liquefied gas special fuels supplier or dealer fails
14 to file any report required by this subchapter, or falsely or fraudulently
15 files a report, or fails to pay the full amount of the tax levied by this
16 subchapter, or if at any time the surety on the licensee's bond becomes
17 unsatisfactory or inaccessible to the ~~Director~~ Secretary of the Department of
18 Finance and Administration or the bond is discharged or cancelled, and a new
19 bond is not furnished by the licensee within five (5) days after the demand
20 of the ~~director~~ secretary, the ~~director~~ secretary may give notice to the
21 licensee of an intention to revoke his or her license.

22 (b) The licensee shall be entitled to a period of ten (10) days after
23 the mailing of the notice within which to apply for a hearing on the question
24 of having his or her license revoked, and the ~~director~~ secretary shall
25 designate a time and place for the hearing, giving the licensee five (5)
26 days' notice thereof.

27 (c) After the hearing at which the licensee shall be entitled to
28 present evidence and be represented by counsel, the ~~director~~ secretary shall
29 determine whether the licensee's license shall be revoked.

30 (d)(1) Upon the issuance of an order revoking the license, the
31 licensee shall be entitled to appeal to the circuit court in any county in
32 which the licensee may do business, where the question shall be tried de
33 novo, but the ~~director's~~ secretary's order shall be affirmed if supported by
34 substantial evidence.

35 (2) An appeal may be had from the judgment of the circuit court
36 as in other cases as provided by law.

1 (e)(1) If the licensee fails to apply for a hearing within the
2 prescribed time, the ~~director~~ secretary may immediately revoke the license of
3 the licensee and notify the licensee by registered mail, addressed to the
4 last known address of the licensee appearing in the files of the ~~director~~
5 secretary.

6 (2) The ~~director~~ secretary shall also notify the surety company
7 on the licensee's bond in like manner.

8
9 SECTION 4005. Arkansas Code § 26-56-312(b), concerning the importation
10 or use of liquefied gas special fuels by an unlicensed person, is amended to
11 read as follows:

12 (b) For the purposes of determining the number of gallons of liquefied
13 gas special fuels consumed in operating on the highways of this state, the
14 liquefied gas special fuels user shall be required to pay to the ~~Director~~
15 Secretary of the Department of Finance and Administration the tax levied by
16 this subchapter on each gallon of liquefied gas special fuels contained in
17 the supply tank of the motor vehicle at the time of entry into the state and
18 upon all liquefied gas special fuels used in this state upon which the tax
19 levied in this subchapter has not been paid.

20
21 SECTION 4006. Arkansas Code § 26-56-313(b)(2), concerning purchase of
22 liquefied gas special fuels by an unlicensed person and the payment of taxes,
23 is amended to read as follows:

24 (2) The supplier or dealer shall deliver the original copy to
25 the purchaser and shall retain the duplicate copy for a period of two (2)
26 years for inspection by the ~~Director~~ Secretary of the Department of Finance
27 and Administration or his or her designated agents.

28
29 SECTION 4007. Arkansas Code § 26-56-314 is amended to read as follows:
30 26-56-314. Nonresident users.

31 If the ~~Director~~ Secretary of the Department of Finance and
32 Administration deems it necessary for the proper enforcement and collection
33 of the tax on liquefied gas special fuels used in this state against
34 nonresident users, other than occasional nonresident users, the ~~director~~
35 secretary may require the nonresident users to obtain a permit, post bond,
36 and report and remit the tax in the same manner as is required in this

1 subchapter for liquefied gas special fuels suppliers.

2
3 SECTION 4008. Arkansas Code § 26-56-315 is amended to read as follows:
4 26-56-315. Conversion of vehicles for use of liquefied gas special
5 fuels.

6 (a)(1) Any liquefied gas special fuels dealer, garage, mechanic,
7 owner, or operator of a motor vehicle who converts or causes a vehicle to be
8 converted to enable the vehicle to be operated on liquefied gas special fuels
9 shall report the conversion to the ~~Director~~ Secretary of the Department of
10 Finance and Administration on forms prescribed by the ~~director~~ secretary
11 within ten (10) days after the conversion.

12 (2) If any owner or operator fails to report a conversion to the
13 ~~director~~ secretary within the time prescribed above, the person shall be
14 assessed a penalty of fifty dollars (\$50.00) which shall be in addition to
15 any criminal penalty provided in this chapter.

16 (b) No person shall convert or equip any motor vehicle for the use of
17 liquefied gas special fuels unless the person is licensed to do so by the
18 Liquefied Petroleum Gas Board and has also made application for and obtained
19 a license as a liquefied gas special fuels converter from the ~~director~~
20 secretary and posted a bond in an amount determined by the ~~director~~ secretary
21 conditioned that the person will report to the ~~director~~ secretary all
22 vehicles so converted by the person as required by this section.

23 (c) It shall be unlawful for any person to operate any vehicle which
24 has been converted or equipped to use liquefied gas special fuels unless the
25 vehicle has been reported to the ~~director~~ secretary and a liquefied gas
26 special fuels user's permit has been obtained therefor as required.

27
28 SECTION 4009. Arkansas Code § 26-56-405(b) and (c), concerning the
29 payment of tax by the Arkansas Department of Transportation, are amended to
30 read as follows:

31 (b) For purposes of computing this tax, the ~~department~~ Arkansas
32 Department of Transportation shall use its fuel consumption reports and shall
33 file with the ~~Director~~ Secretary of the Department of Finance and
34 Administration an appropriate monthly report stating the gallons used in the
35 department's motor vehicles and the tax due and payable.

36 (c) The department shall remit the tax due each month to the ~~director~~

1 secretary.

2

3 SECTION 4010. Arkansas Code § 26-56-504(a)(1), concerning the
4 disposition of revenues, is amended to read as follows:

5 (a)(1) All taxes, interest, penalties, and costs received by the
6 ~~Director~~ Secretary of the Department of Finance and Administration from the
7 additional taxes and fees levied by this subchapter shall be classified as
8 special revenues and shall be deposited into the State Treasury.

9

10 SECTION 4011. Arkansas Code § 26-56-701(1), concerning the definition
11 of "director" under the laws regarding refunds and motor fuel used by fire
12 departments, is repealed.

13 ~~(1) "Director" means the Director of the Department of Finance
14 and Administration or any of his or her deputies, employees, or agents;~~

15

16 SECTION 4012. Arkansas Code § 26-56-703(a), concerning a refund
17 permit, is amended to read as follows:

18 (a) No fire department shall secure a refund of tax under this
19 subchapter unless the fire department is the holder of an unrevoked permit
20 which was issued by the ~~Director~~ Secretary of the Department of Finance and
21 Administration before the purchase of the motor fuel or the distillate
22 special fuel.

23

24 SECTION 4013. Arkansas Code § 26-56-703(c), concerning a refund
25 permit, is amended to read as follows:

26 (c) An application for the permit shall be filed with the ~~director~~
27 secretary on forms prescribed by the ~~director~~ secretary and shall contain
28 such information as the ~~director~~ secretary may require.

29

30 SECTION 4014. Arkansas Code § 26-56-703(e), concerning a refund
31 permit, is amended to read as follows:

32 (e) The refund permit of any person who violates any provision of this
33 subchapter shall be revoked by the ~~director~~ secretary and shall not be
34 reissued until two (2) years have elapsed after the date of the revocation.

35

36 SECTION 4015. The introductory language of Arkansas Code § 26-56-

1 704(a), concerning applications for a refund, is amended to read as follows:

2 (a) The refund permit holder shall file with the ~~Director~~ Secretary of
3 the Department of Finance and Administration an application for refund on
4 forms furnished by the ~~director~~ secretary which shall include, but not be
5 limited to, the following information:

6

7 SECTION 4016. Arkansas Code § 26-56-704(a)(6), concerning applications
8 for a refund, is amended to read as follows:

9 (6) Other information as the ~~director~~ secretary shall require.

10

11 SECTION 4017. Arkansas Code § 26-56-704(b)(2), concerning applications
12 for a refund, is amended to read as follows:

13 (2) The application shall be notarized and made to the ~~director~~
14 secretary.

15

16 SECTION 4018. Arkansas Code § 26-56-704(d)(1), concerning applications
17 for a refund, is amended to read as follows:

18 (d)(1) The ~~director~~ secretary shall promulgate a rule establishing the
19 annual date for claiming a refund pursuant to this subchapter.

20

21 SECTION 4019. Arkansas Code § 26-56-705(b)(1), concerning a refund
22 paid from the Gasoline Tax Refund Fund, is amended to read as follows:

23 (b)(1)(A) The ~~Director~~ Secretary of the Department of Finance and
24 Administration shall annually estimate the amount necessary to pay refunds to
25 the users of distillate special fuel who are entitled to refunds with respect
26 to distillate special fuel taxes paid in this state as authorized in this
27 subchapter.

28

(B) Upon certification by the ~~director~~ secretary, the
29 Treasurer of State shall transfer from the gross amount of distillate special
30 fuel taxes collected each month the amount so certified and shall credit the
31 amount to the fund.

32

33 SECTION 4020. Arkansas Code § 26-56-705(e), concerning a refund paid
34 from the Gasoline Tax Refund Fund, is amended to read as follows:

35 (e) Neither the ~~director~~ secretary nor any member or employee of the
36 Department of Finance and Administration shall be held personally liable for

1 making any refund by reason of a fraudulent claim filed as a basis for the
2 refund.

3

4 SECTION 4021. Arkansas Code § 26-56-706(a), concerning the inspection
5 and records of fire department refunds, is amended to read as follows:

6 (a) The ~~Director~~ Secretary of the Department of Finance and
7 Administration shall keep a permanent record by fire department of the amount
8 of refund claimed and paid to each claimant.

9

10 SECTION 4022. Arkansas Code § 26-56-708 is amended to read as follows:

11 26-56-708. ~~Director's powers~~ Authority of secretary.

12 The ~~Director~~ Secretary of the Department of Finance and Administration
13 may make, amend, and enforce regulations, subpoena witnesses and documents,
14 administer oaths, and do and perform all other acts necessary to carry out
15 the purpose and intent of this subchapter.

16

17 SECTION 4023. Arkansas Code § 26-57-206 is amended to read as follows:

18 26-57-206. Rules.

19 The ~~Director~~ Secretary of the Department of Finance and Administration,
20 the Director of Arkansas Tobacco Control, and the Arkansas Tobacco Control
21 Board may promulgate rules for the proper enforcement of their powers and
22 duties as specifically prescribed by this subchapter.

23

24 SECTION 4024. Arkansas Code § 26-57-211(b), concerning the wholesalers
25 payment of taxes, reports, and remittance of taxes in regards to the Arkansas
26 Tobacco Products Tax Act, is amended to read as follows:

27 (b)(1) On or before the fifteenth day of each month, every wholesaler
28 shall file a report for the previous month's tax collections with the
29 ~~Director~~ Secretary of the Department of Finance and Administration.

30 (2) The report shall provide the information prescribed by the
31 ~~director~~ secretary.

32

33 SECTION 4025. Arkansas Code § 26-57-211(c)(1)(A)(i), concerning the
34 wholesalers payment of taxes, reports, and remittance of taxes in regards to
35 the Arkansas Tobacco Products Tax Act, is amended to read as follows:

36 (c)(1)(A)(i) When the report under subsection (b) of this section is

1 filed, the wholesaler shall remit to the ~~director~~ secretary with the report
2 ninety-eight percent (98%) of the tax due for the previous month.

3
4 SECTION 4026. Arkansas Code § 26-57-211(c)(1)(B), concerning the
5 wholesalers payment of taxes, reports, and remittance of taxes in regards to
6 the Arkansas Tobacco Products Tax Act, is amended to read as follows:

7 (B) If the stamps deputy fails to remit the tax on or
8 before the twentieth day of each applicable month, the wholesaler forfeits
9 his or her claim to the discount described in subdivision (c)(1)(A) of this
10 section, and the wholesaler shall remit to the ~~director~~ secretary one hundred
11 percent (100%) of the amount of tax due, plus any penalty or interest due.

12
13 SECTION 4027. Arkansas Code § 26-57-211(d), concerning the wholesalers
14 payment of taxes, reports, and remittance of taxes in regards to the Arkansas
15 Tobacco Products Tax Act of 1977, is amended to read as follows:

16 (d)(1) The ~~director~~ secretary may add a penalty of ten percent (10%)
17 of the tax due to the tax due for the failure to file a report or for the
18 failure to remit the taxes at the time required, or for both.

19 (2) If the ~~director~~ secretary determines there has been an
20 attempt to evade the tax, a penalty of not more than fifty percent (50%) of
21 the tax due shall be added to the tax due.

22
23 SECTION 4028. Arkansas Code § 26-57-212(a)(1), concerning wholesalers,
24 warehousemen, reports, payment of taxes, and records in regards to the
25 Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

26 (a)(1) Every licensed wholesaler and warehouse that handles, receives,
27 stores, sells, and disposes of tobacco products in any manner in this state
28 shall file a report with the ~~Director~~ Secretary of the Department of Finance
29 and Administration on or before the fifteenth day of each month.

30
31 SECTION 4029. Arkansas Code § 26-57-212(b)(3), concerning wholesalers,
32 warehousemen, reports, payment of taxes, and records in regards to the
33 Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

34 (3) Any other information about the purchases and sales as may
35 be prescribed by the ~~director~~ secretary.

36

1 SECTION 4030. Arkansas Code § 26-57-212(c), concerning wholesalers,
2 warehousemen, reports, payment of taxes, and records in regards to the
3 Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

4 (c) All taxes due for the preceding month shall be remitted to the
5 ~~director~~ secretary at the time the report is filed.

6
7 SECTION 4031. Arkansas Code § 26-57-213(b), concerning invoices in
8 regards to the Arkansas Cigarette or Tobacco Products Excise Tax, is amended
9 to read as follows:

10 (b) Copies of all invoices for the purchase or sale of any tobacco
11 products, vapor products, alternative nicotine products, or e-liquid products
12 shall be retained by each manufacturer, wholesaler, vendor, and retailer for
13 a period of three (3) years subject to examination by the ~~Director~~ Secretary
14 of the Department of Finance and Administration and the Director of Arkansas
15 Tobacco Control or their authorized agents upon demand at any time during
16 regular business hours.

17
18 SECTION 4032. Arkansas Code § 26-57-215(b)(1), concerning the types of
19 permits and licenses in regards to the Arkansas Tobacco Products Tax Act of
20 1977, is amended to read as follows:

21 (b)(1) In addition to securing a permit or license under subsection
22 (a) of this section, a manufacturer whose products are sold in this state
23 shall register with the ~~Director~~ Secretary of the Department of Finance and
24 Administration. A manufacturer whose products are sold in this state is not
25 required to obtain a dealer's license for an employee operating as the
26 manufacturer's sales representative if the manufacturer holds a license or
27 permit under subsection (a) of this section.

28
29 SECTION 4033. Arkansas Code § 26-57-219(c), concerning permits,
30 licenses, and annual privilege tax in regards to the Arkansas Tobacco
31 Products Tax Act of 1977, is amended to read as follows:

32 (c) A permit or license issued under this subchapter shall not be
33 renewed for a permit or license holder who is delinquent more than ninety
34 (90) days on a privilege fee, tax relating to the sale or dispensing of
35 cigarettes or tobacco products, or any other state and local tax due the
36 ~~Director~~ Secretary of the Department of Finance and Administration.

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SECTION 4034. Arkansas Code § 26-57-224(b), concerning a vendor's bond in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

(b) The bond shall be conditioned upon the faithful performance of the duties and obligations imposed by this subchapter and the regulations promulgated by the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 4035. Arkansas Code § 26-57-224(d), concerning a vendor's bond in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

(d) This bond shall be executed by a solvent surety company authorized to do business in this state or other responsible surety approved by the ~~director~~ secretary.

SECTION 4036. Arkansas Code § 26-57-229(c), concerning a licensee as a wholesaler and retailer, is amended to read as follows:

(c) Records shall be kept on forms prescribed by the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 4037. Arkansas Code § 26-57-230(a), concerning common carriers in regards to the Arkansas Tobacco Products Tax Act of 1977, is amended to read as follows:

(a) Common carriers transporting tobacco products, vapor products, alternative nicotine products, or e-liquid products may be required by the ~~Director~~ Secretary of the Department of Finance and Administration or the Director of Arkansas Tobacco Control to give a statement of all consignments of tobacco products, vapor products, alternative nicotine products, or e-liquid products showing date, point of origin, point of delivery, and to whom delivered.

SECTION 4038. Arkansas Code § 26-57-230(b) and (c), concerning common carriers in regards to the Arkansas Tobacco Products Tax Act of 1977, are amended to read as follows:

(b) All common carriers shall permit their records relating to

1 shipment or receipt of tobacco products, vapor products, alternative nicotine
2 products, or e-liquid products to be examined by the ~~Director~~ Secretary of
3 the Department of Finance and Administration, the Director of Arkansas
4 Tobacco Control, or their agents.

5 (c) A person who fails or refuses to give the statement, reports, or
6 invoices required by this section or who refuses to permit the ~~Director~~
7 Secretary of the Department of Finance and Administration or the Director of
8 Arkansas Tobacco Control to examine the person's records is guilty of a Class
9 C misdemeanor.

10
11 SECTION 4039. Arkansas Code § 26-57-232(a)(3), concerning wholesalers,
12 restrictions, and criminal violations in regards to the Arkansas Tobacco
13 Products Tax Act of 1977, is amended to read as follows:

14 (3) The wholesaler before selling, delivering, or otherwise
15 disposing of cigarettes to retailers in this state shall affix stamps of the
16 proper denominations to show that the tax has been paid. The stamp shall be
17 affixed in the manner prescribed by the ~~Director~~ Secretary of the Department
18 of Finance and Administration; and

19
20 SECTION 4040. Arkansas Code § 26-57-232(b), concerning wholesalers,
21 restrictions, and criminal violations in regards to the Arkansas Tobacco
22 Products Tax Act of 1977, is amended to read as follows:

23 (b) Any wholesaler who fails or refuses to affix or cancel the stamps
24 or who fails or refuses to keep the records or who fails or refuses to
25 furnish the statements and information or make the reports as required by
26 this subchapter or as prescribed by the ~~Director~~ Secretary of the Department
27 of Finance and Administration and the Director of Arkansas Tobacco Control,
28 or who violates any of the requirements of §§ 26-57-212, 26-57-229, and 26-
29 57-242 is guilty of a violation for the first offense and a Class C
30 misdemeanor for each additional offense.

31
32 SECTION 4041. Arkansas Code § 26-57-234(a)(4)(A), concerning
33 retailers, vendors, restrictions, and violations, is amended to read as
34 follows:

35 (4)(A) The retailer shall keep records showing the description
36 and date of the receipt of each lot of tobacco products, vapor products,

1 alternative nicotine products, or e-liquid products, from whom purchased, and
2 when received on the premises, or any other requirements prescribed by the
3 ~~Director~~ Secretary of the Department of Finance and Administration.
4

5 SECTION 4042. Arkansas Code § 26-57-234(a)(5), concerning retailers,
6 vendors, restrictions, and violations, is amended to read as follows:

7 (5) The ~~Director~~ Secretary of the Department of Finance and
8 Administration may require retailer reports covering receipts and sales of
9 tobacco products monthly or for any other period; and
10

11 SECTION 4043. Arkansas Code § 26-57-234(c), concerning retailers,
12 vendors, restrictions, and violations, is amended to read as follows:

13 (c) A retailer or vendor who fails or refuses to retain in his or her
14 files invoices of tobacco products, vapor products, alternative nicotine
15 products, or e-liquid products, and stamps, or who fails or refuses to
16 furnish the statements and information or make the reports concerning
17 receipts and sales of tobacco products, vapor products, alternative nicotine
18 products, or e-liquid products, as required by this subchapter or prescribed
19 by the ~~Director~~ Secretary of the Department of Finance and Administration, or
20 who violates any of the requirements of this section, is guilty of a
21 violation.
22

23 SECTION 4044. Arkansas Code § 26-57-235(b), concerning cigarette
24 stamps, is amended to read as follows:

25 (b) The ~~Director~~ Secretary of the Department of Finance and
26 Administration shall prescribe the kind of stamps to be used in the
27 administration of this subchapter.
28

29 SECTION 4045. Arkansas Code § 26-57-235(c)(1) and (2), concerning
30 cigarette stamps, are amended to read as follows:

31 (c)(1) The ~~director~~ secretary shall prepare and maintain an adequate
32 supply of cigarette stamps.

33 (2) The ~~director~~ secretary shall require a printer's certificate
34 with each set of stamps delivered.
35

36 SECTION 4046. Arkansas Code § 26-57-235(c)(4)(A), concerning cigarette

1 stamps, is amended to read as follows:

2 (4)(A) All stamps prescribed by the ~~director~~ secretary for
3 affixation to cigarette packages shall be designed and furnished in such a
4 fashion as to permit identification of the person that affixed the stamp to
5 the particular package of cigarettes by means of a number or other mark on
6 the stamp.

7
8 SECTION 4047. Arkansas Code § 26-57-236(a), concerning the
9 appointment, revocation, and reporting of stamp deputies, is amended to read
10 as follows:

11 (a) The ~~Director~~ Secretary of the Department of Finance and
12 Administration shall furnish tax stamps to licensed wholesalers through stamp
13 deputies.

14
15 SECTION 4048. Arkansas Code § 26-57-236(b)(1), concerning the
16 appointment, revocation, and reporting of stamp deputies, is amended to read
17 as follows:

18 (b)(1) The ~~director~~ secretary may appoint and commission stamp
19 deputies to handle the stamps and collect the tax on cigarettes before sales
20 of cigarettes are made to the retailers.

21
22 SECTION 4049. The introductory language of Arkansas Code § 26-57-
23 236(b)(2), concerning the appointment, revocation, and reporting of stamp
24 deputies, is amended to read as follows:

25 (2) The ~~director~~ secretary shall not appoint and commission a
26 person as a stamp deputy unless the person:

27
28 SECTION 4050. Arkansas Code § 26-57-236(b)(2)(B), concerning the
29 appointment, revocation, and reporting of stamp deputies, is amended to read
30 as follows:

31 (B) Certifies each calendar quarter on a form prescribed
32 by the ~~director~~ secretary that the person has and will comply with the
33 requirements of this subchapter;

34
35 SECTION 4051. The introductory language of Arkansas Code § 26-57-
36 236(b)(2)(E), concerning the appointment, revocation, and reporting of stamp

1 deputies, is amended to read as follows:

2 (E) Waives the confidentiality laws necessary to permit
3 the ~~director~~ secretary to:

4
5 SECTION 4052. Arkansas Code § 26-57-236(b)(2)(E)(ii), concerning the
6 appointment, revocation, and reporting of stamp deputies, is amended to read
7 as follows:

8 (ii) Share information reported under this
9 subchapter and other laws with the taxing authorities or law enforcement
10 authorities of other states or with any other entity permitted by the
11 ~~director~~ secretary to aggregate the data;

12

13 SECTION 4053. Arkansas Code § 26-57-236(b)(2)(F), concerning the
14 appointment, revocation, and reporting of stamp deputies, is amended to read
15 as follows:

16 (F) Has furnished a bond in an amount and in the form
17 prescribed by the ~~director~~ secretary; and

18

19 SECTION 4054. Arkansas Code § 26-57-236(b)(3) and (4), concerning the
20 appointment, revocation, and reporting of stamp deputies, are amended to read
21 as follows:

22 (3) An appointment and commission as a stamp deputy by the
23 ~~director~~ secretary is effective for one (1) year.

24 (4) A stamp deputy acting within the scope of the stamp deputy's
25 authority is an agent of the ~~director~~ secretary and is accountable as such
26 for any wrongful acts.

27

28 SECTION 4055. Arkansas Code § 26-57-236(b)(6)(A), concerning the
29 appointment, revocation, and reporting of stamp deputies, is amended to read
30 as follows:

31 (6)(A) The ~~director~~ secretary shall list on the website of the
32 Department of Finance and Administration the names of all persons appointed
33 and commissioned as stamp deputies under this section.

34

35 SECTION 4056. The introductory language of Arkansas Code § 26-57-
36 236(c)(4)(A), concerning the appointment, revocation, and reporting of stamp

1 deputies, ais amended to read as follows:

2 (4)(A) The ~~director~~ secretary shall:

3

4 SECTION 4057. Arkansas Code § 26-57-236(e)(1)(A), concerning the
5 appointment, revocation, and reporting of stamp deputies, is amended to read
6 as follows:

7 (e)(1)(A) By the fifteenth day of each month, a stamp deputy shall
8 file a report in the form prescribed by the ~~director~~ secretary, and the stamp
9 deputy shall certify to the state that the report is complete and accurate.

10

11 SECTION 4058. Arkansas Code § 26-57-236(e)(1)(B)(v), concerning the
12 appointment, revocation, and reporting of stamp deputies, is amended to read
13 as follows:

14 (v) Any additional information required by the
15 ~~director~~ secretary to assist in the enforcement of this chapter, §§ 26-57-260
16 and 26-57-261, and §§ 26-57-1301 – 26-57-1308.

17

18 SECTION 4059. Arkansas Code § 26-57-236(e)(2) and (3), concerning the
19 appointment, revocation, and reporting of stamp deputies, are amended to read
20 as follows:

21 (2) In addition to the reports submitted under this section, the
22 stamp deputy shall submit any information required by the ~~director~~ secretary,
23 including without limitation the manufacturer, brand family, and number of
24 the cigarettes on which the reports are submitted.

25 (3) The ~~director~~ secretary may share the information reported
26 under this section with the taxing authorities or law enforcement authorities
27 of Arkansas or another state or with any other entity permitted by the
28 ~~director~~ secretary to aggregate the data.

29

30 SECTION 4060. Arkansas Code § 26-57-236(f)(1), concerning the
31 appointment, revocation, and reporting of stamp deputies, is amended to read
32 as follows:

33 (f)(1) The ~~director~~ secretary shall pay a commission to each stamp
34 deputy for the sale of cigarette tax stamps, the affixing of a cigarette tax
35 stamp to each package of cigarettes, and the collection of cigarette taxes.

36

1 SECTION 4061. Arkansas Code § 26-57-237(a), concerning cigarette
2 stamps, sale, and delivery, is amended to read as follows:

3 (a) The ~~Director~~ Secretary of the Department of Finance and
4 Administration or the ~~director's~~ secretary's stamp deputy may sell or deliver
5 cigarette stamps only to licensed wholesalers.
6

7 SECTION 4062. Arkansas Code § 26-57-237(c)(1), concerning cigarette
8 stamps, sale, and delivery, is amended to read as follows:

9 (c)(1) Any cigarette or tobacco products wholesaler or any other
10 person required by law to affix cigarette tax stamps to cigarettes sold or
11 offered for sale in this state shall have the option to receive the stamps
12 directly from the ~~director~~ secretary or to request that the stamps be shipped
13 to the person in a manner to be selected by the ~~director~~ secretary.
14

15 SECTION 4063. Arkansas Code § 26-57-237(c)(4), concerning cigarette
16 stamps, sale, and delivery, is amended to read as follows:

17 (4) A wholesaler or other person who chooses a method of
18 shipment other than the method selected by the ~~director~~ secretary shall pay
19 the ~~director~~ secretary for the stamps prior to shipment.
20

21 SECTION 4064. Arkansas Code § 26-57-238 is amended to read as follows:

22 26-57-238. Cigarette stamps – Refund on unsold, returned cigarettes.

23 When cigarettes to which stamps have been affixed are unsold and are
24 returned by the retailer or the wholesaler who paid tax on them to the
25 wholesaler or manufacturer from whom they were originally purchased, refund
26 of the tax paid on the cigarettes may be made in the manner prescribed by the
27 ~~Director~~ Secretary of the Department of Finance and Administration.
28

29 SECTION 4065. Arkansas Code § 26-57-244(a), concerning the possession
30 of untaxed, unstamped products, notice, and prima facie evidence, is amended
31 to read as follows:

32 (a) It is unlawful for a person to receive or have in the person's
33 possession for sale, consumption, or any other purpose, any untaxed tobacco
34 products or unstamped cigarettes unless the tax prescribed by this subchapter
35 has been paid directly to the ~~Director~~ Secretary of the Department of Finance
36 and Administration by the person in possession of the untaxed tobacco

1 products or unstamped cigarettes.

2
3 SECTION 4066. Arkansas Code § 26-57-244(c), concerning the possession
4 of untaxed, unstamped products, notice, and prima facie evidence, is amended
5 to read as follows:

6 (c) If tax has been paid to the ~~director~~ secretary on any untaxed
7 tobacco products or unstamped cigarettes, a consumer may establish proof of
8 the payment by providing a receipt or any other documentation that clearly
9 indicates that the tax was paid.

10
11 SECTION 4067. Arkansas Code § 26-57-244(f)(2)-(4), concerning the
12 possession of untaxed, unstamped products, notice, and prima facie evidence,
13 are amended to read as follows:

14 (2) The tax due shall be reported on forms provided by the
15 ~~director~~ secretary on or before the fifteenth day of the month following the
16 month in which the untaxed purchase was made.

17 (3) The report shall provide the information prescribed by the
18 ~~director~~ secretary.

19 (4) When a report is filed, the consumer shall remit the full
20 amount of tax due on the untaxed purchase to the ~~director~~ secretary.

21
22 SECTION 4068. Arkansas Code § 26-57-244(g), concerning the possession
23 of untaxed, unstamped products, notice, and prima facie evidence, are amended
24 to read as follows:

25 (g) The ~~director~~ secretary is authorized to directly assess the excise
26 tax due on any untaxed tobacco products or unstamped cigarettes against a
27 consumer who purchases the items and fails to report and remit the excise tax
28 due in a timely manner.

29
30 SECTION 4069. The introductory language of Arkansas Code § 26-57-
31 244(i)(1)(B), concerning the possession of untaxed, unstamped products,
32 notice, and prima facie evidence, are amended to read as follows:

33 (B) Provides on at least a monthly basis and on the form
34 prescribed by the ~~director~~ secretary a report indicating the following for
35 each brand family:

1 SECTION 4070. The introductory language of Arkansas Code § 26-57-
2 244(i)(2)(C), concerning the possession of untaxed, unstamped products,
3 notice, and prima facie evidence, are amended to read as follows:

4 (C) Provides on at least a monthly basis and on the form
5 prescribed by the ~~director~~ secretary a report indicating the following for
6 each brand family:
7

8 SECTION 4071. Arkansas Code § 26-57-244(i)(3)(A)(iii), concerning the
9 possession of untaxed, unstamped products, notice, and prima facie evidence,
10 are amended to read as follows:

11 (iii) If the wholesaler's facility to which the
12 cigarettes are transferred is located outside of Arkansas, the wholesaler
13 shall report the quantity and brand of the cigarettes to the ~~director~~
14 secretary, the Attorney General, and the taxing authority of the other state
15 within fifteen (15) days following the end of the month in which the transfer
16 was made.
17

18 SECTION 4072. Arkansas Code § 26-57-247(b)(1), concerning the seizure,
19 forfeiture, and disposition of tobacco products and other property, is
20 amended to read as follows:

21 (1) Prima facie evidence exists that the full amount of excise
22 tax due on the tobacco products has not been paid to the ~~Director~~ Secretary
23 of the Department of Finance and Administration;
24

25 SECTION 4073. Arkansas Code § 26-57-250(a), concerning party
26 defendants in a civil action to recover tax and penalties, is amended to read
27 as follows:

28 (a) When the ~~Director~~ Secretary of the Department of Finance and
29 Administration finds from investigation that the state has lost tax revenue
30 because of the evasion of any provision of this subchapter, the ~~director~~
31 secretary may bring suit in the proper court to recover the tax and
32 penalties.
33

34 SECTION 4074. Arkansas Code § 26-57-251(a), concerning criminal
35 actions and civil actions brought in the name of the Director of the
36 Department of Finance and Administration, is amended to read as follows:

1 (a) All civil actions arising under this subchapter shall be brought
2 by and in the name of the ~~Director~~ Secretary of the Department of Finance and
3 Administration or the Director of Arkansas Tobacco Control, whichever is
4 appropriate under the provisions of this subchapter.

5
6 SECTION 4075. Arkansas Code § 26-57-256(a)(4)(C)(i), concerning the
7 powers of the Arkansas Tobacco Control Board, is amended to read as follows:

8 (C)(i) Each year the board shall provide a list of all
9 applicants for the issuance or renewal of all tobacco, vapor product,
10 alternative nicotine product, or e-liquid product permits and licenses to the
11 ~~Director~~ Secretary of the Department of Finance and Administration.

12
13 SECTION 4076. Arkansas Code § 26-57-257(c), concerning the Director of
14 Arkansas Tobacco Control, is amended to read as follows:

15 (c) The Director of Arkansas Tobacco Control, in consultation with the
16 Secretary of the Department of Finance and Administration, may employ other
17 personnel as he or she deems necessary and as authorized by the General
18 Assembly.

19
20 SECTION 4077. Arkansas Code § 26-57-257(p), concerning the Director of
21 Arkansas Tobacco Control, is amended to clarify the duties of the director to
22 read as follows:

23 (p) The Director of Arkansas Tobacco Control shall have other powers,
24 functions, and duties pertaining to the issuance, suspension, and revocation
25 of the permits and licenses enumerated in § 26-57-219 ~~that previously were~~
26 ~~granted to the Director of the Department of Finance and Administration~~,
27 except those that are specifically delegated to the Department of Finance and
28 Administration by this subchapter.

29
30 SECTION 4078. Arkansas Code § 26-57-257(q)(1), concerning the Director
31 of Arkansas Tobacco Control, is amended to read as follows:

32 (q)(1)(A) The power and duty to collect taxes imposed on tobacco and
33 tobacco products is specifically exempted from the powers and duties granted
34 or assigned to the board or the ~~director~~ Director of Tobacco Control.

35 (B) However, a permit or license holder's failure to pay
36 taxes or fees imposed on tobacco products or any permit or license fees

1 imposed by this subchapter in a timely manner is grounds for the nonissuance,
2 suspension, revocation, or nonrenewal of any permits or licenses issued by
3 the board.

4 (C) Failure to timely and fully pay any other state and
5 local taxes as reported by the ~~Director~~ Secretary of the Department of
6 Finance and Administration shall also constitute grounds for the nonissuance,
7 suspension, revocation, or nonrenewal of any permits or licenses issued by
8 the board.

9
10 SECTION 4079. Arkansas Code § 26-57-257(q)(2)(A), concerning the
11 Director of Arkansas Tobacco Control, is amended to read as follows:

12 (2)(A) Each year the ~~Director~~ Secretary of the Department of
13 Finance and Administration shall report to the Director of Arkansas Tobacco
14 Control all permit and license holders who are more than ninety (90) days
15 delinquent on any state and local taxes.

16
17 SECTION 4080. Arkansas Code § 26-57-257(q)(3)(B), concerning the
18 Director of Arkansas Tobacco Control, is amended to read as follows:

19 (B) This notice shall inform the permit or license holder
20 that he or she is delinquent on payment of state and local taxes due the
21 ~~Director~~ Secretary of the Department of Finance and Administration and that
22 the permit or license holder will be unable to obtain or renew the permit or
23 license that he or she holds until such time as the person becomes current in
24 the payment of the tax due the ~~Director~~ Secretary of the Department of
25 Finance and Administration, or until such time as the person enters into a
26 valid repayment agreement with the department for the payment of the
27 delinquent tax.

28
29 SECTION 4081. Arkansas Code § 26-57-262(c)(6), concerning the sale of
30 export cigarettes, is amended to read as follows:

31 (6) On or before the fifteenth business day of each month, each
32 person licensed to affix the state tax stamp to cigarettes shall file with
33 the ~~Director~~ Secretary of the Department of Finance and Administration for
34 all cigarettes imported into the United States to which the person has
35 affixed the tax stamp in the preceding month copies of the customs
36 certificates with respect to the cigarettes required to be submitted by 19

1 U.S.C. § 1681a(c).

2

3 SECTION 4082. Arkansas Code § 26-57-263(b)(2)(B)(i), concerning
4 cigarette inputs and cigarette rolling machines, is amended to read as
5 follows:

6 (B)(i) A civil penalty of up to fifty thousand dollars
7 (\$50,000) in any action brought by the ~~Director~~ Secretary of the Department
8 of Finance and Administration, the Director of Arkansas Tobacco Control, or
9 the Attorney General.

10

11 SECTION 4083. Arkansas Code § 26-57-264(a), concerning information to
12 be provided to the Attorney General, is amended to read as follows:

13 (a) Upon request of the Attorney General, any information provided to
14 the ~~Director~~ Secretary of the Department of Finance and Administration or the
15 Director of Arkansas Tobacco Control shall be provided to the Attorney
16 General.

17

18 SECTION 4084. Arkansas Code § 26-57-404(b), concerning privilege taxes
19 on amusement devices, is amended to read as follows:

20 (b) The ~~Director~~ Secretary of the Department of Finance and
21 Administration shall collect for each amusement device the full annual
22 license fee when paid during the first six (6) months of the fiscal year, but
23 any license fee paid during the last six (6) months of the fiscal year shall
24 be upon the basis of one-half ($\frac{1}{2}$) of the annual tax.

25

26 SECTION 4085. Arkansas Code § 26-57-405(a), concerning the license tag
27 for machines, is amended to read as follows:

28 (a) Upon payment of the tax provided for in § 26-57-404, the ~~Director~~
29 Secretary of the Department of Finance and Administration will issue a
30 license tag.

31

32 SECTION 4086. Arkansas Code § 26-57-406 is amended to read as follows:

33 26-57-406. Unlicensed games a public nuisance – Seizure and sale –
34 Redemption.

35 Every amusement device as defined in § 26-57-402 upon which the
36 individual privilege tax of five dollars (\$5.00) has not been paid is

1 declared to be a public nuisance and may be seized by any authorized agent of
2 the Department of Finance and Administration and sold by the ~~Director~~
3 Secretary of the Department of Finance and Administration on an order of the
4 Pulaski County Circuit Court. However, the owner of the amusement device
5 shall have the privilege of redeeming the amusement device within ten (10)
6 days by paying the tax due and costs.

7

8 SECTION 4087. Arkansas Code § 26-57-411(a), concerning the requirement
9 for a surety bond for a license, is amended to read as follows:

10 (a) Prior to the issuance or renewal of any license under this
11 subchapter, the ~~Director~~ Secretary of the Department of Finance and
12 Administration shall require the applicant to procure a suitable surety bond
13 in the principal sum of six thousand dollars (\$6,000) to insure the faithful
14 and prompt payment of all sales taxes, use taxes, or privilege taxes which
15 may become due in connection with the operation of the licensed business and
16 to secure the faithful performance of all duties and obligations imposed by
17 this subchapter.

18

19 SECTION 4088. Arkansas Code § 26-57-412(a) and (b), concerning the
20 issuance of a license for a coin-operated amusement device, are amended to
21 read as follows:

22 (a) Licenses for the privilege of owning, operating, or leasing coin-
23 operated amusement devices shall be issued by the ~~Director~~ Secretary of the
24 Department of Finance and Administration.

25 (b) Applications for the licenses shall be on a form prescribed by the
26 ~~director~~ secretary.

27

28 SECTION 4089. Arkansas Code § 26-57-413(a), concerning licenses,
29 revocation, or suspension in regards to coin-operated amusement devices, is
30 amended to read as follows:

31 (a) The ~~Director~~ Secretary of the Department of Finance and
32 Administration may revoke or suspend the license authorized under this
33 subchapter for cause.

34

35 SECTION 4090. Arkansas Code § 26-57-413(c), concerning licenses,
36 revocation, or suspension in regards to coin-operated amusement devices, is

1 amended to read as follows:

2 (c) The licensee shall have fifteen (15) days in which to notify the
3 ~~director~~ secretary that a hearing is desired, after which time a hearing
4 shall be had not less than fifteen (15) days subsequent to the expiration of
5 the fifteen-day period of notice.

6

7 SECTION 4091. Arkansas Code § 26-57-413(d)(1), concerning licenses,
8 revocation, or suspension in regards to coin-operated amusement devices, is
9 amended to read as follows:

10 (d)(1) Any licensee whose license has been revoked or suspended may
11 appeal to the Pulaski County Circuit Court within twenty (20) days after
12 revocation or suspension by filing a copy of the notice of the revocation or
13 suspension with the clerk of the circuit court and causing a summons to be
14 served on the ~~director~~ secretary.

15

16 SECTION 4092. Arkansas Code § 26-57-414(b)(1), concerning a coin-
17 operated amusement device, is amended to read as follows:

18 (b)(1) A coin-operated amusement device owned, operated, or leased
19 without first obtaining the license prescribed in § 26-57-412 shall be seized
20 by an authorized agent of the Revenue Division of the Department of Finance
21 and Administration and sold by the ~~Director~~ Secretary of the Department of
22 Finance and Administration at public auction on an order of the Pulaski
23 County Circuit Court.

24

25 SECTION 4093. Arkansas Code § 26-57-415(a), concerning the
26 notification of purchase or lease of an amusement device, is amended to read
27 as follows:

28 (a) All licensees under this subchapter within ten (10) days of the
29 date of purchase or lease of any amusement device upon which an annual
30 privilege tax is levied by the state shall furnish the ~~Director~~ Secretary of
31 the Department of Finance and Administration with a copy of the invoice or
32 lease agreement, showing the description and serial number of the amusement
33 device and evidence that the Arkansas sales tax has been paid.

34

35 SECTION 4094. Arkansas Code § 26-57-416(c), concerning a lessor's
36 records and sales taxes, is amended to read as follows:

1 (c) All records required to be kept by the licensee under the
2 provision of this subchapter shall be made available to the ~~Director~~
3 Secretary of the Department of Finance and Administration within a reasonable
4 time after request or the license of the offending licensee may be revoked as
5 provided in this subchapter.

6
7 SECTION 4095. Arkansas Code § 26-57-419(a) and (b), concerning a
8 licenses to sell coin-operated amusement devices, are amended to read as
9 follows:

10 (a) Licenses to sell coin-operated amusement devices shall be issued
11 by the ~~Director~~ Secretary of the Department of Finance and Administration.

12 (b) Applications for the licenses shall be on a form prescribed by the
13 ~~director~~ secretary.

14
15 SECTION 4096. Arkansas Code § 26-57-419(f)(1), concerning a licenses
16 to sell coin-operated amusement devices, is amended to read as follows:

17 (f)(1) The ~~director~~ secretary may revoke or suspend the licenses for
18 cause.

19
20 SECTION 4097. Arkansas Code § 26-57-419(f)(3), concerning a licenses
21 to sell coin-operated amusement devices, is amended to read as follows:

22 (3) The licensee shall have fifteen (15) days in which to notify
23 the ~~director~~ secretary that a hearing is desired, after which time a hearing
24 shall be held not less than fifteen (15) days subsequent to the expiration of
25 the fifteen-day period of notice.

26
27 SECTION 4098. Arkansas Code § 26-57-419(f)(4)(A), concerning a
28 licenses to sell coin-operated amusement devices, is amended to read as
29 follows:

30 (4)(A) Any licensee whose license has been revoked or suspended
31 may appeal to the Pulaski County Circuit Court by filing a copy of the notice
32 of revocation or suspension with the clerk of the court within twenty (20)
33 days of receipt thereof and causing the issuance of a summons to be served on
34 the ~~director~~ secretary. The hearing shall be de novo in the Pulaski County
35 Circuit Court.

36

1 SECTION 4099. Arkansas Code § 26-57-502 is amended to read as follows:
2 26-57-502. Regulation and licensing.

3 The regulation and licensing of the business conducted in this state by
4 what is known as travel bureaus or travel services operating for the purpose
5 of securing transportation in private automobiles from one (1) destination to
6 another on the share-expense basis both within and without the State of
7 Arkansas is placed in the Revenue Division of the Department of Finance and
8 Administration, and the ~~Director~~ Secretary of the Department of Finance and
9 Administration is authorized to license and collect the fees therefor and
10 enforce this subchapter in its entirety by due process of law.

11
12 SECTION 4100. Arkansas Code § 26-57-503 is amended to read as follows:
13 26-57-503. Notice of engaging in business.

14 (a) Any person, firm, partnership, limited liability company, or
15 corporation in this state who shall enter into or conduct such a business as
16 is described in § 26-57-502 immediately upon engaging in or commencing the
17 business shall notify the ~~Director~~ Secretary of the Department of Finance and
18 Administration by letter of that fact, setting forth the date of commencement
19 and stating his or her intention to abide by all the provisions of this
20 subchapter.

21 (b) The notice shall be filed by the ~~director~~ secretary in such manner
22 as will enable the ~~director~~ secretary to properly inspect and record the
23 latter compliance of the person with the provisions of this subchapter.

24
25 SECTION 4101. Arkansas Code § 26-57-506 is amended to read as follows:
26 26-57-506. Disposition of tax.

27 The ~~Director~~ Secretary of the Department of Finance and Administration
28 shall remit the funds so collected to the State Treasury, and the Treasurer
29 of State is directed to credit all the moneys to the Old Age Pension Fund.

30
31 SECTION 4102. Arkansas Code § 26-57-801(c) and (d), concerning excise
32 taxes, are amended to read as follows:

33 (c) The tax shall be remitted to the ~~Director~~ Secretary of the
34 Department of Finance and Administration at the same time and in the same
35 manner as prescribed by the Arkansas Tobacco Products Tax Act of 1977, § 26-
36 57-201 et seq.

1 (d) The ~~director~~ secretary shall promulgate such regulations as the
2 ~~director~~ secretary deems necessary for the implementation of this section.

3
4 SECTION 4103. Arkansas Code § 26-57-802(e), concerning additional
5 taxes, applicability, reporting, and remitting, is amended to read as
6 follows:

7 (e) As provided in § 26-57-244, the ~~Director~~ Secretary of the
8 Department of Finance and Administration may make a direct assessment of
9 excise tax against any person in possession of an untaxed tobacco product or
10 unstamped cigarettes.

11
12 SECTION 4104. Arkansas Code § 26-57-804(e), concerning an additional
13 tax of twelve dollars and fifty cents on cigarettes, is amended to read as
14 follows:

15 (e) The ~~Director~~ Secretary of the Department of Finance and
16 Administration shall pay the commission authorized by § 26-57-236 with
17 respect to the tax levied by this section.

18
19 SECTION 4105. Arkansas Code § 26-57-804(g), concerning an additional
20 tax of twelve dollars and fifty cents on cigarettes, is amended to read as
21 follows:

22 (g) As provided in § 26-57-244, the ~~director~~ secretary may make a
23 direct assessment of excise tax against any person in possession of unstamped
24 cigarettes.

25
26 SECTION 4106. Arkansas Code § 26-57-805(e), concerning an additional
27 tax of seven percent on tobacco products other than cigarettes, is amended to
28 read as follows:

29 (e) As provided in § 26-57-244, the ~~Director~~ Secretary of the
30 Department of Finance and Administration may make a direct assessment of
31 excise tax against any person in possession of an untaxed tobacco product.

32
33 SECTION 4107. Arkansas Code § 26-57-806(f), concerning an additional
34 tax of twenty-eight dollars on cigarettes, is amended to read as follows:

35 (f) As provided in § 26-57-244, the ~~Director~~ Secretary of the
36 Department of Finance and Administration may make a direct assessment of

1 excise tax against any person in possession of unstamped cigarettes.

2

3 SECTION 4108. Arkansas Code § 26-57-807(f), concerning an additional
4 tax of thirty-six percent on tobacco products other than cigarettes, is
5 amended to read as follows:

6 (f) As provided in § 26-57-244, the ~~Director~~ Secretary of the
7 Department of Finance and Administration may make a direct assessment of
8 excise tax against any person in possession of an untaxed tobacco product.

9

10 SECTION 4109. Arkansas Code § 26-57-902(3), concerning the definition
11 of "director" under the Arkansas Soft Drink Tax Act, is repealed.

12 ~~(3) "Director" means the Director of the Department of Finance~~
13 ~~and Administration or his or her authorized agent;~~

14

15 SECTION 4110. Arkansas Code § 26-57-905(6), concerning exemptions from
16 certain taxes, is amended to read as follows:

17 (6) Syrups, simple syrups, powders or base products, or soft
18 drinks sold by one distributor, wholesaler, or manufacturer to another
19 distributor, wholesaler, or manufacturer who holds a license issued by the
20 ~~Director~~ Secretary of the Department of Finance and Administration under the
21 provisions of § 26-57-909 as a distributor, wholesaler, or manufacturer,
22 provided that the license number of the distributor, wholesaler, or
23 manufacturer to whom the soft drink is sold is clearly shown on the invoice
24 for the sale which is claimed to be exempt. This exemption shall not apply to
25 any sale to a retailer;

26

27 SECTION 4111. Arkansas Code § 26-57-906(b) and (c), concerning the
28 reporting of taxes, are amended to read as follows:

29 (b) The distributor, wholesaler, or manufacturer and any retailer
30 subject to this tax shall file a monthly return and remit the tax for the
31 month to the ~~Director~~ Secretary of the Department of Finance and
32 Administration on or before the fifteenth day of the month next following the
33 month in which the sale or purchase was made.

34 (c)(1) The returns shall be made upon forms prescribed and furnished
35 by the ~~director~~ secretary and signed by the person required to collect and
36 remit the tax or the person's agent.

1 (2) The return shall contain such information as the ~~director~~
2 secretary shall require for the proper administration of this subchapter.

3
4 SECTION 4112. Arkansas Code § 26-57-909(a) and (b), concerning
5 licenses for soft drinks, are amended to read as follows:

6 (a) All distributors, wholesalers, or manufacturers of soft drinks,
7 whether located within or without the State of Arkansas, who sell or offer
8 syrups, simple syrups, powders, or base products, or soft drinks for sale to
9 retail dealers within the State of Arkansas shall obtain a license for the
10 privilege of conducting such business within Arkansas from the ~~Director~~
11 Secretary of the Department of Finance and Administration.

12 (b) Any retailer who purchases syrups, simple syrups, powders, or base
13 products, or soft drinks from an unlicensed manufacturer, wholesaler, or
14 distributor shall obtain a license for the privilege of conducting such
15 business from the ~~director~~ secretary.

16
17 SECTION 4113. Arkansas Code § 26-57-1001(1), concerning sales taxes
18 for vending devices, is amended to read as follows:

19 (1) "~~Director~~ Secretary" means the ~~Director~~ Secretary of
20 the Department of Finance and Administration or his or her authorized agents;

21
22 SECTION 4114. Arkansas Code § 26-57-1002(a) and (b), concerning
23 registration, records, and amount of taxes, are amended to read as follows:

24 (a) Any person who sells tangible personal property through vending
25 devices may elect to register with the ~~Director~~ Secretary of the Department
26 of Finance and Administration as a vending device operator and pay the state
27 and local sales and use taxes as provided in this section.

28 (b) Any person who elects to register as a vending device operator
29 shall obtain a gross receipts tax permit from the ~~director~~ secretary as
30 provided in § 26-52-201 et seq.

31
32 SECTION 4115. Arkansas Code § 26-57-1003(a)(1), concerning an election
33 not to register, is amended to read as follows:

34 (1) Surrender any gross receipts tax permits issued by the
35 ~~Director~~ Secretary of the Department of Finance and Administration, unless
36 the permit is needed to report taxable sales other than sales through a

1 vending device; and

2

3 SECTION 4116. Arkansas Code § 26-57-1003(a)(2)(B)(i), concerning an
4 election not to register, is amended to read as follows:

5 (B)(i) The sale for resale exemption provided in § 26-52-
6 401(12) shall not apply to purchases of tangible personal property for resale
7 through vending devices unless the purchaser is registered with the ~~director~~
8 secretary as a vending device operator.

9

10 SECTION 4117. Arkansas Code § 26-57-1004(b)(1)(B), concerning the
11 identification of a taxpayer and presumption of nonpayment, is amended to
12 read as follows:

13 (B) The ~~Director~~ Secretary of the Department of Finance
14 and Administration shall seal any vending device subject to this presumption
15 in such a manner as to prevent any further sales through the vending device
16 and shall assess and collect a penalty of fifty dollars (\$50.00) per vending
17 device against the person selling tangible personal property through the
18 vending device.

19

20 SECTION 4118. Arkansas Code § 26-57-1101(b), concerning an additional
21 tax on cigarettes, is amended to read as follows:

22 (b) As provided in § 26-57-244, the ~~Director~~ Secretary of the
23 Department of Finance and Administration may make a direct assessment of
24 excise tax against any person in possession of unstamped cigarettes.

25

26 SECTION 4119. Arkansas Code § 26-57-1102(c), concerning an additional
27 tax on tobacco products other than cigarettes, is amended to read as follows:

28 (c) As provided in § 26-57-244, the ~~Director~~ Secretary of the
29 Department of Finance and Administration may make a direct assessment of
30 excise tax against any person in possession of untaxed tobacco products.

31

32 SECTION 4120. Arkansas Code § 26-57-1202 is amended to read as
33 follows:

34 26-57-1202. Administration of law.

35 The provisions of this subchapter will be subject to the provisions of
36 the Arkansas Tax Procedure Act, § 26-18-101 et seq., as those provisions

1 shall apply to the administration of this subchapter by the ~~Director~~
2 Secretary of the Department of Finance and Administration.

3
4 SECTION 4121. Arkansas Code § 26-57-1204(b) and (c), concerning the
5 application, issuance, and display of a vending device decal, are amended to
6 read as follows:

7 (b) The operator of a vending device who makes the election to pay the
8 decal fees provided by this subchapter shall be responsible for applying to
9 the ~~Director~~ Secretary of the Department of Finance and Administration for
10 the issuance of an annual or special vending device decal for the vending
11 device and at the same time shall pay to the ~~director~~ secretary the annual or
12 special vending device decal fee provided for by this subchapter, before the
13 vending device is made available for use and operation by the general public.

14 (c) The ~~director~~ secretary, upon receipt of full payment of the
15 applicable decal fee, and upon approval of the application, shall issue to
16 the person making the application an annual or special vending device decal
17 for the type of vending device or devices covered by the application and
18 payment.

19
20 SECTION 4122. Arkansas Code § 26-57-1204(d)(1), concerning the
21 application, issuance, and display of a vending device decal, is amended to
22 read as follows:

23 (d)(1) The annual or special vending device decals and the application
24 provided for herein shall be in such form as prescribed by the ~~director~~
25 secretary. These decals and applications shall contain on their faces such
26 information and descriptions as shall be required by regulations adopted by
27 the ~~director~~ secretary to properly and reasonably implement the provisions of
28 this subchapter.

29
30 SECTION 4123. Arkansas Code § 26-57-1205(2), concerning the
31 requirements to obtain a vending device decal, is amended to read as follows:

32 (2) Must have obtained from the ~~Director~~ Secretary of the
33 Department of Finance and Administration an Arkansas gross receipts tax
34 permit.

35
36 SECTION 4124. The introductory language of Arkansas Code § 26-57-

1 1206(a)(1), concerning the annual decal fee, special decals, and in lieu of
2 sales tax, is amended to read as follows:

3 (a)(1) Every person who is the operator of a vending device, who
4 elects to have the operation of the vending device covered by the provisions
5 of this subchapter, and who makes available to the general public for use and
6 operation vending devices described in this subchapter shall pay to the
7 ~~Director~~ Secretary of the Department of Finance and Administration for the
8 benefit of the state and its municipalities and counties the following annual
9 vending device decal fee for each vending device before the vending device
10 may be placed in service within the state for use by members of the public:
11

12 SECTION 4125. Arkansas Code § 26-57-1206(a)(3), concerning the annual
13 decal fee, special decals, and in lieu of sales tax, is amended to read as
14 follows:

15 (3) The annual vending device decal shall not be transferred
16 from one (1) vending device to another, unless the person who is the operator
17 of the vending device shall establish to the satisfaction of the ~~director~~
18 secretary that the vending device to which the annual vending device decal is
19 to be transferred is a vending device that is replacing the vending device to
20 which the annual vending device decal was originally affixed.
21

22 SECTION 4126. The introductory language of Arkansas Code § 26-57-
23 1206(b), concerning the annual decal fee, special decals, and in lieu of
24 sales tax, is amended to read as follows:

25 (b) In those instances in which it is shown to the satisfaction of the
26 ~~director~~ secretary that a vending device upon which an annual vending device
27 decal fee is otherwise due will be placed in service for use by members of
28 the general public for a definite period of time that is less than one (1)
29 year, such as when the vending device shall be placed for public use in
30 connection with fairs, carnivals, and places of amusement that operate only
31 during certain seasons of the year, the ~~director~~ secretary shall issue for
32 those vending devices a special vending device decal and collect a special
33 vending device decal fee computed as follows:
34

35 SECTION 4127. Arkansas Code § 26-57-1206(e), concerning the annual
36 decal fee, special decals, and in lieu of sales tax, is amended to read as

1 follows:

2 (e)(1) For all vending devices that the operator does not elect to
3 have covered by the decal fee provided by this section, the operator of that
4 vending device shall acquire from the ~~director~~ secretary an identifying decal
5 that the operator shall affix to the vending device in a prominent place so
6 as to establish to the consuming public that the vending device is not
7 covered by the provisions of this subchapter.

8 (2) By reasonable regulations the ~~director~~ secretary shall
9 establish the amount to be charged for an identifying decal, and the amount
10 shall not exceed the cost of producing the identifying decals.

11

12 SECTION 4128. Arkansas Code § 26-57-1207(a)(2), concerning the taxable
13 year, a decal for a remainder of years, and first year payment options, is
14 amended to read as follows:

15 (2) The ~~Director~~ Secretary of the Department of Finance and
16 Administration shall in each instance issue annual vending device decals for
17 the remainder of the decal year upon payment of the annual vending device
18 decal fee on the basis of the full amount of the annual decal applied for
19 between July 1 and December 31 of the decal fee year, and in return for the
20 payment of an amount of one-half ($\frac{1}{2}$) of the annual vending device decal fee,
21 for any annual decal applied for between January 1 and June 30 of the decal
22 fee year.

23

24 SECTION 4129. Arkansas Code § 26-57-1207(b), concerning the taxable
25 year, a decal for a remainder of years, and first year payment options, is
26 amended to read as follows:

27 (b) For the first taxable year that the annual or special vending
28 device decal fee is applicable, the person who is the operator of the vending
29 devices that are subject to registration and payment of the decal fees shall
30 register all vending devices with the ~~director~~ secretary, but for the first
31 one-half year, after March 31, 1997, the operator shall pay one-half ($\frac{1}{2}$) of
32 the decal fee for each vending device on or before January 1, 1998.
33 Thereafter, the entire annual or special vending device decal fee shall be
34 due from the person who is the owner, lessor, renter, or operator of the
35 vending devices on or before July 1 of the applicable taxable year.

36

1 SECTION 4130. Arkansas Code § 26-57-1208(a)(2), concerning the
2 distribution of revenue, is amended to read as follows:

3 (2) For that purpose and to that end, it is expressly provided
4 that the revenue derived by the ~~Director~~ Secretary of the Department of
5 Finance and Administration from the sale of annual or special vending device
6 decal fees, including penalties, shall be deposited by the ~~director~~ secretary
7 into the State Treasury and credited as provided in subsection (b) of this
8 section.

9
10 SECTION 4131. Arkansas Code § 26-57-1209(a)(1), concerning penalties
11 in regards to vending devices, is amended to read as follows:

12 (a)(1) Any person who is the operator of a vending device who places a
13 vending device in use and operation, or in a place available to members of
14 the general public for use and operation, without a valid and current annual
15 or special vending device decal having been affixed thereto as required by §§
16 26-57-1204 and 26-57-1206, shall be liable for the decal fee on the vending
17 device in the full amount of the applicable annual vending device decal fee,
18 as levied by this subchapter, and the annual vending device decal fee shall
19 be collected by the ~~Director~~ Secretary of the Department of Finance and
20 Administration in accordance with the provisions of § 26-57-1204.

21
22 SECTION 4132. Arkansas Code § 26-57-1209(a)(2)(A), concerning
23 penalties in regards to vending devices, is amended to read as follows:

24 (2)(A) In addition to the annual vending device decal fee that
25 is due on the vending device, the operator of the vending device which was
26 responsible for failing to apply for and pay for the applicable annual
27 vending device decal fee shall also be liable to pay the ~~director~~ secretary a
28 penalty which the person shall pay to the ~~director~~ secretary and which the
29 ~~director~~ secretary shall assess against the person.

30
31 SECTION 4133. Arkansas Code § 26-57-1210(b), concerning prohibited
32 devices not legalized and fees not refunded, is amended to read as follows:

33 (b) The ~~Director~~ Secretary of the Department of Finance and
34 Administration may assume that any vending device described in any
35 application made under this subchapter and for which an annual or special
36 vending device decal fee is paid is lawful, and no claim for refund of any

1 annual or special vending device decal fee shall be allowed based upon the
2 inability of the operator of the coin-operated device to operate the vending
3 device because of any other applicable law of this state.

4
5 SECTION 4134. Arkansas Code § 26-57-1211(b) and (c), concerning
6 vending devices without a decal affixed, seizure and forfeiture, are amended
7 to read as follows:

8 (b) The vending device may be seized and sealed on site at its
9 location by the ~~Director~~ Secretary of the Department of Finance and
10 Administration or his or her authorized agent, and the vending device shall
11 not be removed from the location by any person until the vending device is
12 released from seizure by the ~~director~~ secretary or his or her authorized
13 agent.

14 (c) The vending device may be seized by any authorized agent of the
15 ~~director~~ secretary, or by any sheriff or other law enforcement officer of
16 this state acting upon the request and at the direction of the ~~director~~
17 secretary.

18
19 SECTION 4135. Arkansas Code § 26-57-1212(a) and (b), concerning the
20 procedure upon forfeiture of a vending device, are amended to read as
21 follows:

22 (a) Upon the seizure of the vending device, the vending device shall
23 forthwith be delivered, together with the cash, if any, contained in the
24 receptacle of the vending device, to the ~~Director~~ Secretary of the Department
25 of Finance and Administration.

26 (b) The ~~director~~ secretary or his or her authorized agent shall then
27 proceed to make an administrative determination of whether or not the vending
28 device and cash, if any, that have been seized should in fact be forfeited to
29 the State of Arkansas.

30
31 SECTION 4136. Arkansas Code § 26-57-1213(a), concerning the sale of
32 devices upon forfeiture, is amended to read as follows:

33 (a) In the event the ~~Director~~ Secretary of the Department of Finance
34 and Administration or his or her authorized agent finds that the vending
35 device, including the cash contents, if any, should be forfeited to the State
36 of Arkansas, the ~~director~~ secretary or his or her authorized agent shall make

1 a written determination of forfeiture of the vending device to the State of
2 Arkansas, and the ~~director~~ secretary shall direct the sale of the vending
3 device.

4
5 SECTION 4137. The introductory language of Arkansas Code § 26-57-
6 1213(b), concerning the sale of devices upon forfeiture, is amended to read
7 as follows:

8 (b) The vending device shall be sold by the ~~director~~ secretary, his or
9 her authorized agent, the sheriff in the county where it was seized, or the
10 sheriff of Pulaski County after thirty-days' written notice of sale, which
11 notice of sale shall be given:

12
13 SECTION 4138. Arkansas Code § 26-57-1213(c), concerning the sale of
14 devices upon forfeiture, is amended to read as follows:

15 (c) At the discretion of the ~~director~~ secretary, notice of sale of the
16 vending device may be given, alternatively to posting, by publishing the
17 notice of sale in a newspaper of general circulation in the county at least
18 thirty (30) days prior to the sale.

19
20 SECTION 4139. Arkansas Code § 26-57-1216 is amended to read as
21 follows:

22 26-57-1216. Forfeiture determination – Appeal.

23 (a) The written determination of the ~~Director~~ Secretary of the
24 Department of Finance and Administration or his or her authorized agent
25 declaring a forfeiture of the vending device, including the cash contents
26 thereof, if any, and directing the sale of the vending device shall be a
27 final determination of the ~~director~~ secretary and shall be treated for
28 purposes of the owner's or operator's appeal of the ~~director's~~ secretary's
29 determination as a final assessment, subject to the provisions of the
30 Arkansas Tax Procedure Act, § 26-18-101 et seq.

31 (b) Judicial review of the final determination by the ~~director~~
32 secretary shall be available pursuant to the provisions of § 26-18-406.

33
34 SECTION 4140. Arkansas Code § 26-57-1303(b)(4)(A), concerning
35 certifications, directory, and tax stamps, is amended to read as follows:

36 (A) The tobacco product manufacturer knowingly sold

1 cigarettes to a stamp deputy whose appointment and commission has been
2 revoked by the ~~Director~~ Secretary of the Department of Finance and
3 Administration under § 26-57-236;

4
5 SECTION 4141. Arkansas Code § 26-57-1502 is amended to read as
6 follows:

7 26-57-1502. Administration of law.

8 The provisions of this subchapter are subject to the provisions of the
9 Arkansas Tax Procedure Act, § 26-18-101 et seq., as those provisions apply to
10 the administration of this subchapter by the ~~Director~~ Secretary of the
11 Department of Finance and Administration, including without limitation the
12 provisions regarding interest and penalty on delinquent taxes.

13
14 SECTION 4142. Arkansas Code § 26-57-1504 is amended to read as
15 follows:

16 26-57-1504. Levy of tax.

17 A cultivation facility, dispensary, or other marijuana business shall
18 collect and remit a special privilege tax of four percent (4%) from the gross
19 receipts or gross proceeds derived from each sale of usable marijuana on
20 forms and in a manner specified by the ~~Director~~ Secretary of the Department
21 of Finance and Administration.

22
23 SECTION 4143. Arkansas Code § 26-57-1505(b), concerning the remittance
24 of tax, is amended to read as follows:

25 (b) The cultivation facility, dispensary, or other marijuana business
26 subject to this tax shall file a monthly return and remit the tax for the
27 month to the ~~Director~~ Secretary of the Department of Finance and
28 Administration on or before the twentieth day of the month next following the
29 month in which the sale or purchase was made.

30
31 SECTION 4144. Arkansas Code § 26-57-1505(c)(2), concerning the
32 remittance of tax, is amended to read as follows:

33 (2) The return shall contain such information as the ~~director~~
34 secretary requires for the proper administration of this subchapter.

35
36 SECTION 4145. Arkansas Code § 26-58-101(5), concerning the definition

1 of "director" under severance tax law, is amended to read as follows:

2 ~~(5) "Director" means the Director of the Department of Finance~~
3 ~~and Administration or any of his or her duly appointed deputies or agents;~~
4

5 SECTION 4146. Arkansas Code § 26-58-105 is amended to read as follows:

6 26-58-105. Regulations and forms regarding severance taxes on timber.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 with the advice and approval of the Arkansas Forestry Commission shall
9 develop and adopt appropriate regulations and forms to carry out the intent
10 and purposes of this subchapter with respect to severance taxes on timber.
11

12 SECTION 4147. Arkansas Code § 26-58-106(a), concerning permits to
13 engage in business, is amended to read as follows:

14 (a)(1) Any individual or firm desiring to engage in the business of
15 severing natural resources or timber before entering the business shall make
16 application to the ~~Director~~ Secretary of the Department of Finance and
17 Administration for a license or permit.

18 (2) In a form of application to be prescribed by the ~~director~~
19 secretary, the applicant shall state under oath his or her name and address,
20 the business in which he or she desires to engage, and the counties in which
21 he or she will carry on the proposed severing.
22

23 SECTION 4148. Arkansas Code § 26-58-106(b)(3), concerning permits to
24 engage in business, is amended to read as follows:

25 (3) That the severance tax imposed by this subchapter shall
26 constitute and remain a lien on each unit of production until the severance
27 tax is paid to the ~~director~~ secretary.
28

29 SECTION 4149. Arkansas Code § 26-58-106(c), concerning permits to
30 engage in business, is amended to read as follows:

31 (c) Upon the filing of the application, the ~~director~~ secretary shall
32 issue a permit for which no charge shall be made.
33

34 SECTION 4150. Arkansas Code § 26-58-107(b), concerning the levying of
35 taxes, is amended to read as follows:

36 (b) The severance tax is to be paid to the ~~Director~~ Secretary of the

1 Department of Finance and Administration.

2

3 SECTION 4151. Arkansas Code § 26-58-111(6)(C), concerning the rate of
4 tax, is amended to read as follows:

5 (C) The ~~Director~~ Secretary of the Department of Finance
6 and Administration shall have the power to promulgate such reasonable rules
7 and regulations as shall be necessary to effectively enforce the foregoing
8 provisions;

9

10 SECTION 4152. Arkansas Code § 26-58-111(7)(C)(ii), concerning the rate
11 of tax, is amended to read as follows:

12 (ii) If the above conversion factors are not
13 appropriate for conversion of any particular measurement of timber to weight,
14 the ~~director~~ secretary, with the advice and approval of the Arkansas Forestry
15 Commission, shall develop an appropriate conversion procedure to produce
16 equivalent rates;

17

18 SECTION 4153. Arkansas Code § 26-58-113(b), concerning an additional
19 tax on stone and crushed stone, as well as deposit and allocation of funds,
20 is amended to read as follows:

21 (b) The additional severance tax is to be paid to the ~~Director~~
22 Secretary of the Department of Finance and Administration.

23

24 SECTION 4154. Arkansas Code § 26-58-113(e)(1), concerning an
25 additional tax on stone and crushed stone, as well as deposit and allocation
26 of funds, is amended to read as follows:

27 (e)(1) All taxes, penalties, and costs collected by the ~~director~~
28 secretary under the provisions of this section shall be deposited into the
29 State Treasury to the credit of the State Apportionment Fund.

30

31 SECTION 4155. Arkansas Code § 26-58-113(e)(2)(B)(i)(b), concerning an
32 additional tax on stone and crushed stone, as well as deposit and allocation
33 of funds, is amended to read as follows:

34 (b) On or before the tenth of the month
35 following the end of each calendar quarter, the Treasurer of State shall
36 remit by state warrants to the various county treasurers all such funds

1 received by the Treasurer of State during such quarterly period and
2 transferred to the County Aid Fund in the proportions thereof as between the
3 respective counties that, as certified by the ~~director~~ secretary to the
4 Treasurer of State, the total severance tax produced from each such county
5 bears to the total of such taxes produced from all counties.

6
7 SECTION 4156. The introductory language of Arkansas Code § 26-58-
8 114(a)(1), concerning reports, payment of taxes by producers, primary
9 processors, cancellation of permit upon cessation of business, and the
10 penalty for noncompliance, is amended to read as follows:

11 (a)(1) Each producer of natural resources, excluding natural gas, and
12 each primary processor of timber, whether or not he or she shall have
13 actually severed natural resources, excluding natural gas, or processed
14 timber during the preceding month, shall file a report within twenty-five
15 (25) days after the end of each month with the ~~Director~~ Secretary of the
16 Department of Finance and Administration in a form prescribed by the ~~director~~
17 secretary that states:

18
19 SECTION 4157. Arkansas Code § 26-58-114(a)(1)(E), concerning reports,
20 payment of taxes by producers, primary processors, cancellation of permit
21 upon cessation of business, and the penalty for noncompliance, is amended to
22 read as follows:

23 (E) Any other information as the ~~director~~ secretary may
24 reasonably require for the enforcement of this subchapter.

25
26 SECTION 4158. Arkansas Code § 26-58-114(a)(2)(A), concerning reports,
27 payment of taxes by producers, primary processors, cancellation of permit
28 upon cessation of business, and the penalty for noncompliance, is amended to
29 read as follows:

30 (2)(A) When the average amount of severance tax for which the
31 taxpayer is liable for the previous fiscal year beginning on July 1 and
32 ending on June 30 does not exceed one hundred dollars (\$100) per month, the
33 ~~director~~ secretary may notify the taxpayer that a quarterly report and
34 remittance in lieu of a monthly report may be made.

35
36 SECTION 4159. Arkansas Code § 26-58-114(a)(3), concerning reports,

1 payment of taxes by producers, primary processors, cancellation of permit
2 upon cessation of business, and the penalty for noncompliance, is amended to
3 read as follows:

4 (3) When the average amount of severance tax for which the
5 taxpayer is liable for the previous fiscal year beginning on July 1 and
6 ending on June 30 does not exceed twenty-five dollars (\$25.00) per month, the
7 ~~director~~ secretary may notify the taxpayer that an annual report and
8 remittance in lieu of a monthly report may be made on or before January 25 of
9 each year for the preceding calendar year.

10
11 SECTION 4160. The introductory language of Arkansas Code § 26-58-
12 114(b)(1)(A), concerning reports, payment of taxes by producers, primary
13 processors, cancellation of permit upon cessation of business, and the
14 penalty for noncompliance, is amended to read as follows:

15 (b)(1)(A) A producer of natural gas shall file with the ~~director~~
16 secretary a report, in a form or forms prescribed by the ~~director~~ secretary,
17 that states:

18
19 SECTION 4161. Arkansas Code § 26-58-114(b)(1)(A)(v), concerning
20 reports, payment of taxes by producers, primary processors, cancellation of
21 permit upon cessation of business, and the penalty for noncompliance, is
22 amended to read as follows:

23 (v) Any other information as the ~~director~~ secretary
24 may reasonably require for the enforcement of this subchapter.

25
26 SECTION 4162. Arkansas Code § 26-58-114(b)(1)(C), concerning reports,
27 payment of taxes by producers, primary processors, cancellation of permit
28 upon cessation of business, and the penalty for noncompliance, is amended to
29 read as follows:

30 (C) The producer is required to file a report with the
31 ~~director~~ secretary for each month whether or not the producer has actually
32 severed natural gas during the month.

33
34 SECTION 4163. Arkansas Code § 26-58-114(b)(2)(A), concerning reports,
35 payment of taxes by producers, primary processors, cancellation of permit
36 upon cessation of business, and the penalty for noncompliance, is amended to

1 read as follows:

2 (2)(A) When the average amount of severance tax for which the
3 taxpayer is liable for the previous fiscal year beginning on July 1 and
4 ending on June 30 does not exceed one hundred dollars (\$100) per month, the
5 ~~director~~ secretary may notify the taxpayer that a quarterly report and
6 remittance in lieu of a monthly report may be made.

7

8 SECTION 4164. Arkansas Code § 26-58-114(b)(3), concerning reports,
9 payment of taxes by producers, primary processors, cancellation of permit
10 upon cessation of business, and the penalty for noncompliance, is amended to
11 read as follows:

12 (3) When the average amount of severance tax for which the
13 taxpayer is liable for the previous fiscal year beginning on July 1 and
14 ending on June 30 does not exceed twenty-five dollars (\$25.00) per month, the
15 ~~director~~ secretary may notify the taxpayer that an annual report and
16 remittance in lieu of a monthly report may be made on or before February 25
17 of each year for the preceding calendar year.

18

19 SECTION 4165. Arkansas Code § 26-58-114(e), concerning reports,
20 payment of taxes by producers, primary processors, cancellation of permit
21 upon cessation of business, and the penalty for noncompliance, is amended to
22 read as follows:

23 (e)(1) Within ten (10) days after any producer or primary processor
24 ceases operation with the intention of no longer engaging in the business of
25 severing or processing natural resources or timber, the permit issued shall
26 be returned by him or her to the ~~director~~ secretary for cancellation.

27 (2) A producer or processor whose permit is cancelled under
28 subdivision (e)(1) of this section may reengage in the business of severing
29 or processing natural resources or timber after filing a new application with
30 the ~~director~~ secretary and receiving a new permit by the ~~director~~ secretary.

31

32 SECTION 4166. Arkansas Code § 26-58-116(a)-(d), concerning reporting
33 and payment of tax, are amended to read as follows:

34 (a) Unless a purchaser of natural resources, excluding natural gas, is
35 excused in writing by the ~~Director~~ Secretary of the Department of Finance and
36 Administration in advance of the report filing deadline from filing a report,

1 a purchaser of natural resources, excluding natural gas, shall file with the
2 ~~director~~ secretary a verified report within twenty (20) days after the end of
3 each reporting period in a form or forms prescribed by the ~~director~~ secretary
4 that states:

5 (1) The names and addresses of all producers from whom the
6 purchaser has acquired natural resources during the respective reporting
7 period;

8 (2) The types and total quantity of each type of the natural
9 resources acquired and the purchase price; and

10 (3) Any other information as the ~~director~~ secretary reasonably
11 may require for the proper enforcement of this subchapter.

12 (b)(1) Unless a purchaser of natural gas is excused in writing by the
13 ~~director~~ secretary in advance of the report filing deadline from filing a
14 report, a purchaser of natural gas shall file with the ~~director~~ secretary a
15 report in a form or forms prescribed by the ~~director~~ secretary that states:

16 (A) The names, addresses, and severance tax permit numbers
17 of all producers from whom the purchaser has purchased natural gas during
18 each reporting period;

19 (B) The total quantity of natural gas acquired and the
20 purchase price; and

21 (C) Any other information as the ~~director~~ secretary may
22 reasonably require for the proper enforcement of this subchapter.

23 (2) The purchaser of natural gas shall file each report required
24 under this subsection on or before the twenty-fifth day of the second month
25 following the reporting period that is covered by the report.

26 (c)(1) It is the duty of each purchaser of natural resources,
27 excluding natural gas, to ascertain in advance of permitting the natural
28 resources so purchased to be processed or otherwise changed from the natural
29 state thereof at the time of severance or to be transported for the purpose
30 of such processing or other change that the severance tax upon the natural
31 resources has been paid.

32 (2) Each purchaser of natural gas shall determine in advance of
33 filing the report under subsection (b) of this section that each producer
34 from whom the purchaser has purchased natural gas has been issued a severance
35 tax permit number and furnish the ~~director~~ secretary the severance tax permit
36 number of each producer under subsection (b) of this section.

1 (3)(A) The purchaser of natural resources, excluding natural
2 gas, is primarily liable for any unpaid severance tax in the event of failure
3 to make such advance ascertainment.

4 (B) Each purchaser of natural gas is primarily liable for
5 any unpaid severance tax that is attributable to a producer from whom the
6 purchaser purchased natural gas if the purchaser fails to furnish the
7 ~~director~~ secretary with all of the information required in subsection (b) of
8 this section.

9 (4) However, the purchaser as a condition to permitting the
10 processing or other change of such natural resources, excluding natural gas,
11 as to which the severance tax shall not have been paid by the producer may
12 himself or herself pay such tax either in advance or, with the advance
13 written approval of the ~~director~~ secretary for cause shown to the ~~director~~
14 secretary, within twenty (20) days after commencing the processing or other
15 change of the natural resources or the transportation thereof for such
16 purpose.

17 (d)(1) Unless the ~~director~~ secretary has given advance written
18 approval for the removal under subsection (a) of this section, the removal by
19 the purchaser of natural resources, excluding natural gas, to any point of
20 concentration or assembly, either inside or outside the state, without the
21 severance tax having been previously paid by the producer or the purchaser is
22 a fraudulent concealment of the location of the natural resources with the
23 intent to avoid the payment of the severance tax.

24 (2) Unless the ~~director~~ secretary has given advance written
25 approval for the removal, the removal by the producer, purchaser, or primary
26 processor of any timber to any point outside the state without the severance
27 tax having been paid on the timber is unlawful.

28
29 SECTION 4167. The introductory language of Arkansas Code § 26-58-
30 118(a), concerning reports and transporters, is amended to read as follows:

31 (a) All transporters of natural resources, save and except only
32 pipeline transporters, whenever and as often as requested by the ~~Director~~
33 Secretary of the Department of Finance and Administration shall furnish a
34 report under oath and upon forms prescribed by ~~director~~ secretary setting
35 forth:
36

1 SECTION 4168. Arkansas Code § 26-58-118(a)(5), concerning reports and
2 transporters, is amended to read as follows:

3 (5) All such further information relating to the transportation
4 of the natural resources as the ~~director~~ secretary may reasonably require for
5 the proper enforcement of the provisions of this subchapter.

6
7 SECTION 4169. Arkansas Code § 26-58-119 is amended to read as follows:
8 26-58-119. Procedure upon failure to file reports or pay tax, filing
9 inaccurate reports – Penalties – Subpoenas.

10 (a)(1) In the event any producer or purchaser of natural resources or
11 any primary processor of timber fails within the time provided for in this
12 subchapter to file the verified reports required of them respectively, or in
13 the event that the ~~Director~~ Secretary of the Department of Finance and
14 Administration is not satisfied of the correctness of the reports as filed
15 with the ~~director~~ secretary, or in the event any such producer or purchaser
16 of natural resources or any primary processor of timber fails to pay all
17 taxes due as provided in §§ 26-58-114 and 26-58-116, it shall be the duty of
18 the ~~director~~ secretary to ascertain the true amount and value of the natural
19 resources or timber severed and to assess the severance tax based thereon.

20 (2) For the purposes thereof the ~~director~~ secretary is
21 authorized to require either the producer or purchaser or both of them, or
22 the primary processor, to furnish the ~~director~~ secretary with such
23 information, or further information, as the ~~director~~ secretary may deem
24 necessary and to require the production, at such place as the ~~director~~
25 secretary may designate, of the books, records, and files of the producer and
26 the purchaser or primary processor and to examine them and to take testimony
27 of witnesses.

28 (3)(A) The ~~director~~ secretary shall assess a penalty equal to
29 fifty percent (50%) of the amount of the severance tax, including the cost
30 and expense of assessing the penalty, and shall make demand for payment of
31 the penalty upon both the producer of natural resources and the purchaser of
32 natural resources to the extent liability for the tax may be imposed on the
33 purchaser under § 26-58-116 or the primary processor of timber, as the case
34 may be.

35 (B) The penalty assessment under subdivision (a)(3)(A) of
36 this section shall not apply to any estimated severance tax payment that is

1 made in good faith by a producer of natural gas or a purchaser of natural
2 gas.

3 (b)(1) If the producer, purchaser, or primary processor or any other
4 such witness willfully fails to appear or to produce such books, records, and
5 files before the ~~director~~ secretary, in obedience to the ~~director's~~
6 secretary's request, the ~~director~~ secretary shall certify the name of the
7 reluctant producer, purchaser, primary processor, or other witness, with a
8 statement of the circumstances to the circuit court of the county having
9 jurisdiction over the person.

10 (2) The court shall thereupon issue a subpoena commanding the
11 producer, purchaser, primary processor, or other witness to appear before the
12 ~~director~~ secretary, at a place designated, on a day fixed, to be continued as
13 occasion may require, and to give such evidence, and to produce for
14 inspection such books and papers as may be required by the ~~director~~ secretary
15 for a proper determination of the amount of taxes due.

16 (3) The court may hear and punish any contempt of such subpoena
17 brought to the court's attention by the ~~director~~ secretary.

18

19 SECTION 4170. Arkansas Code § 26-58-120(a)(1) and (2), concerning the
20 Arkansas Forestry Commission and their access to information and
21 investigations, are amended to read as follows:

22 (a)(1) The Arkansas Forestry Commission and the authorized
23 representatives of the commission shall have access to all tax returns and
24 other information and records of the ~~Director~~ Secretary of the Department of
25 Finance and Administration related to the reporting and payment of taxes
26 levied upon timber by this subchapter.

27 (2) The commission shall furnish the ~~director~~ secretary in
28 writing the names of the forestry personnel who are authorized to have access
29 to the timber tax records.

30

31 SECTION 4171. Arkansas Code § 26-58-120(d), concerning the Arkansas
32 Forestry Commission and their access to information and investigations, are
33 amended to read as follows:

34 (d) If after completion of the inspection or investigation of a timber
35 processor the commission finds that a timber processor is not collecting or
36 remitting all taxes due under the provisions of this subchapter, the

1 commission shall so advise the ~~director~~ secretary and shall furnish the
2 ~~director~~ secretary the information upon which such finding is based.

3
4 SECTION 4172. Arkansas Code § 26-58-121 is amended to read as follows:

5 26-58-121. Information provided to Arkansas Forestry Commission.

6 The ~~Director~~ Secretary of the Department of Finance and Administration
7 is directed to release any and all information requested by the Arkansas
8 Forestry Commission which is related to the collection of timber severance
9 taxes. This information shall include, but not be limited to, names,
10 addresses, and amounts paid.

11
12 SECTION 4173. Arkansas Code § 26-58-122 is amended to read as follows:

13 26-58-122. Procedures followed upon failure to pay severance taxes due
14 the Arkansas Forestry Commission.

15 (a)(1) In the event that the Arkansas Forestry Commission determines
16 that any individual or corporation has failed to pay all severance taxes due
17 to the commission, the commission shall certify the commission's findings to
18 the Revenue Division of the Department of Finance and Administration.

19 (2) Upon receipt thereof, the ~~Director~~ Secretary of the
20 Department of Finance and Administration shall immediately conduct an
21 investigation of such matter.

22 (3) Within thirty (30) days of receipt of the certification, the
23 ~~director~~ secretary shall report all findings to the commission.

24 (b) If the ~~director~~ secretary determines that all severance taxes due
25 the commission are not being or have not been paid, the ~~director~~ secretary
26 shall immediately proceed to institute any legal action necessary to collect
27 such tax.

28 (c)(1) In the event the ~~director~~ secretary fails to report to the
29 commission within the time specified or the commission disagrees with the
30 findings of the ~~director~~ secretary, the State Forester shall file with the
31 Governor, the Legislative Council, and the House ~~Interim~~ Committee on Revenue
32 and Taxation and the Senate ~~Interim~~ Committee on Revenue and Taxation a
33 report of the matter.

34 (2) The Governor shall then conduct an investigation into such
35 failure to report by the ~~director~~ secretary or disagreement as to tax
36 liability with the commission, take whatever measures the Governor deems

1 necessary to rectify the situation, and shall notify the Legislative Council
2 and the House ~~Interim~~ Committee on Revenue and Taxation and the Senate
3 ~~Interim~~ Committee on Revenue and Taxation of the Governor's decision.
4

5 SECTION 4174. Arkansas Code § 26-58-124(a), concerning the
6 distribution of severance taxes, is amended to read as follows:

7 (a) All taxes, penalties, and costs collected by the ~~Director~~
8 Secretary of the Department of Finance and Administration under the
9 provisions of this subchapter, except for the taxes, penalties, and costs
10 collected on natural gas, shall be deposited into the State Treasury to the
11 credit of the State Apportionment Fund.
12

13 SECTION 4175. Arkansas Code § 26-58-124(b)(2)(D)(ii), concerning the
14 distribution of severance taxes, is amended to read as follows:

15 (ii) On or before the tenth of the month following
16 the end of each calendar quarter, the Treasurer of State shall remit by state
17 warrants to the various county treasurers all funds under subdivision
18 (b)(2)(D)(i) of this section then received by him or her during the quarterly
19 period and transferred to the County Aid Fund in the proportions of the funds
20 as between the respective counties that, as certified by the ~~director~~
21 secretary to the Treasurer of State, the total severance tax produced from
22 each respective county bears to the total of the taxes produced from all
23 counties.
24

25 SECTION 4176. The introductory language of Arkansas Code § 26-58-
26 124(c), concerning the distribution of severance taxes, is amended to read as
27 follows:

28 (c) All taxes, penalties, and costs collected by the ~~director~~
29 secretary on natural gas shall be deposited into the State Treasury as
30 follows:
31

32 SECTION 4177. Arkansas Code § 26-58-201(2), concerning tax credits for
33 certain oil and gas producers, is amended to read as follows:

34 (2) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the
35 Department of Finance and Administration or any of his or her duly appointed
36 deputies or agents;

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SECTION 4178. Arkansas Code § 26-58-206(a), concerning a permit for tax credit, is amended to read as follows:

(a) A producer in this state wishing to obtain the benefits of the provisions for this subchapter shall make application to the ~~Director~~ Secretary of the Department of Finance and Administration for a permit to obtain credit on severance taxes due on all oil or natural gas produced in salt-water-producing wells of the producer as provided in this subchapter.

SECTION 4179. Arkansas Code § 26-58-206(c), concerning a permit for tax credit, is amended to read as follows:

(c) If the ~~director~~ secretary determines that the producer has complied with the provisions of this subchapter and the rules established by the ~~director~~ secretary, the ~~director~~ secretary shall issue a permit to the producer.

SECTION 4180. Arkansas Code § 26-58-208(b)(2), concerning tax credits and the maximum annual credits allowed, is amended to read as follows:

(2) If for any calendar year the total severance tax credits of all oil producers operating, utilizing, or maintaining approved underground saltwater disposal systems exceed the total maximum allowable severance tax credits provided in subdivision (b)(1) of this section, the ~~Director~~ Secretary of the Department of Finance and Administration shall prorate the allowable severance tax credits among the respective oil producers in the proportion that the severance tax credits due each oil producer bear to the total of all severance tax credits due all qualifying oil producers.

SECTION 4181. Arkansas Code § 26-58-208(c)(2), concerning tax credits and the maximum annual credits allowed, is amended to read as follows:

(2) If for any calendar year the total severance tax credits of all natural gas producers operating, utilizing, or maintaining approved underground saltwater disposal systems exceed the total maximum allowable severance tax credits provided in subdivision (c)(1) of this section, the ~~director~~ secretary shall prorate the allowable severance tax credits among the respective natural gas producers in the proportion that the severance tax credits due each natural gas producer bear to the total of all severance tax

1 credits due all qualifying natural gas producers.

2

3 SECTION 4182. Arkansas Code § 26-58-208(d)(1), concerning tax credits
4 and the maximum annual credits allowed, is amended to read as follows:

5 (d)(1) A claim for a severance tax credit shall be filed with the
6 ~~director~~ secretary on forms prescribed by the ~~director~~ secretary on or before
7 April 1 of the calendar year following the calendar year in which the costs
8 of maintaining the underground saltwater disposal system were incurred.

9

10 SECTION 4183. Arkansas Code § 26-58-208(g), concerning tax credits and
11 the maximum annual credits allowed, is amended to read as follows:

12 (g) The ~~director~~ secretary may promulgate rules to administer this
13 section.

14

15 SECTION 4184. Arkansas Code § 26-58-209(1), concerning the cost of
16 maintaining a saltwater disposal system, is amended to read as follows:

17 (1) An allowance, to be spread equally over each severance tax
18 reporting period, for depreciation of the actual cash investment of the
19 producer in the constructing, equipping, and improving of an approved
20 underground saltwater disposal system, which depreciation period shall not be
21 less than five (5) years nor more than ten (10) years as may be approved by
22 the ~~Director~~ Secretary of the Department of Finance and Administration;

23

24 SECTION 4185. Arkansas Code § 26-58-210 is amended to read as follows:
25 26-58-210. Records.

26 A producer obtaining the benefits of the provisions of this subchapter
27 shall maintain for a period of not less than three (3) years such records as
28 may be required by the ~~Director~~ Secretary of the Department of Finance and
29 Administration that may be necessary to justify the cost credits allowed by
30 this subchapter.

31

32 SECTION 4186. Arkansas Code § 26-58-301(b)(2) and (3), concerning a
33 levy for the benefit of the Arkansas Museum of Natural Resources Fund, are
34 amended to read as follows:

35 (2) The taxes levied in this subsection shall be reported and
36 remitted monthly to the ~~Director~~ Secretary of the Department of Finance and

1 Administration on such forms and in such manner as the ~~director~~ secretary
2 shall prescribe by regulations.

3 (3) All revenues collected by the ~~director~~ secretary under the
4 tax levied in this subsection shall be deposited into the State Treasury as
5 special revenues, and the Treasurer of State after deducting from these
6 special revenues the three percent (3%) provided by law for credit to the
7 Constitutional Officers Fund and the State Central Services Fund shall credit
8 the net amount to the Arkansas Museum of Natural Resources Fund to be used
9 for the construction, maintenance, operation, and improvement of the Arkansas
10 Museum of Natural Resources.

11

12 SECTION 4187. Arkansas Code § 26-58-302(a)(2), concerning an
13 additional levy for the benefit of the Arkansas Museum of Natural Resources
14 Fund, is amended to read as follows:

15 (2) The taxes shall be reported and paid monthly to the ~~Director~~
16 Secretary of the Department of Finance and Administration by each producer of
17 oil in such manner and upon such forms as the ~~director~~ secretary shall
18 prescribe.

19

20 SECTION 4188. Arkansas Code § 26-58-302(b)(2), concerning an
21 additional levy for the benefit of the Arkansas Museum of Natural Resources
22 Fund, is amended to read as follows:

23 (2) The tax shall be reported and paid monthly to the ~~director~~
24 secretary by each producer of brine and oil in such manner and upon such
25 forms as the ~~director~~ secretary may prescribe.

26

27 SECTION 4189. Arkansas Code § 26-58-302(c)(1), concerning an
28 additional levy for the benefit of the Arkansas Museum of Natural Resources
29 Fund, is amended to read as follows:

30 (c)(1) Funds collected by the ~~director~~ secretary under this section
31 are classified as cash fund receipts, and the full amount of the funds shall
32 be deposited into one (1) or more accounts in one (1) or more banks in this
33 state, which account or accounts shall be designated "Arkansas Museum of
34 Natural Resources Fund".

35

36 SECTION 4190. Arkansas Code § 26-58-303(a)(2), concerning the levy for

1 benefit of the Arkansas Museum of Natural Resources Bond Redemption Fund, is
2 amended to read as follows:

3 (2) The fee shall be reported and paid monthly to the ~~Director~~
4 Secretary of the Department of Finance and Administration by each producer of
5 oil in such manner and upon such forms as the ~~director~~ secretary shall
6 prescribe.

7

8 SECTION 4191. Arkansas Code § 26-58-303(b)(2), concerning the levy for
9 benefit of the Arkansas Museum of Natural Resources Bond Redemption Fund, is
10 amended to read as follows:

11 (2) The fee shall be reported and paid monthly to the ~~director~~
12 secretary by each producer of brine and oil in such manner and upon such
13 forms as the ~~director~~ secretary shall prescribe.

14

15 SECTION 4192. Arkansas Code § 26-59-102(2), concerning the definition
16 of "director", is repealed.

17 ~~(2) "Director" means the Director of the Department of Finance~~
18 ~~and Administration;~~

19

20 SECTION 4193. Arkansas Code § 26-59-105 is amended to read as follows:
21 26-59-105. Administration and enforcement of chapter.

22 Except as otherwise provided in this chapter, the ~~Director~~ Secretary of
23 the Department of Finance and Administration shall have jurisdiction and be
24 charged with the administration and enforcement of the provisions of this
25 chapter.

26

27 SECTION 4194. Arkansas Code § 26-59-109(b), concerning estate tax
28 returns, is amended to read as follows:

29 (b) Returns by Beneficiaries. If the executor is unable to make a
30 complete return as to any part of the gross estate of the decedent, he or she
31 shall include in his or her return a description of such part and the name of
32 every person holding a legal or beneficial interest therein. Upon notice from
33 the ~~Director~~ Secretary of the Department of Finance and Administration, such
34 person shall in like manner make a return as to such part of the gross
35 estate.

36

1 SECTION 4195. Arkansas Code § 26-59-109(d), concerning estate tax
2 returns, is amended to read as follows:

3 (d) Place of Filing. Estate tax returns shall be filed with the
4 ~~director~~ secretary at his or her office in Little Rock, Arkansas.

5
6 SECTION 4196. The introductory language of Arkansas Code § 26-59-110,
7 concerning the contents of estate tax returns, is amended to read as follows:

8 The executor at such times and in such manner as may be required by
9 regulations made pursuant to law shall also file with the ~~Director~~ Secretary
10 of the Department of Finance and Administration a return under oath, setting
11 forth:

12
13 SECTION 4197. Arkansas Code § 26-59-111(b) and (c), concerning an
14 estate tax return and an extension of filing time, are amended to read as
15 follows:

16 (b) This request for extension of time in which to file shall be
17 granted by the timely filing of a copy of the federal application form with
18 the ~~Director~~ Secretary of the Department of Finance and Administration and
19 then attaching to the Arkansas estate tax return, when actually filed with
20 the ~~director~~ secretary, a copy of the document granting such federal
21 extension.

22 (c) The ~~director~~ secretary shall assess interest at the rate of ten
23 percent (10%) per annum on the amount of estate tax finally determined to be
24 due from the date the estate tax return was originally due to be filed.

25
26 SECTION 4198. Arkansas Code § 26-59-112 is amended to read as follows:

27 26-59-112. ~~Director~~ Secretary to make return when no return filed.

28 If any executor, administrator, fiduciary, trustee, person,
29 corporation, company, or association fails to make and file a return or list
30 at the time prescribed by law or by regulation made under authority of law,
31 or makes, willfully or otherwise, a false or fraudulent return or list, the
32 ~~Director~~ Secretary of the Department of Finance and Administration shall make
33 the return or list from the ~~director's~~ secretary's own knowledge and from
34 such information as the ~~director~~ secretary can obtain through testimony or
35 otherwise. Any return or list so made by the ~~director~~ secretary shall be
36 prima facie good and sufficient for all legal purposes.

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SECTION 4199. Arkansas Code § 26-59-113(a), concerning payment, time limitations, and federal elections, is amended to read as follows:

(a) The tax imposed by this chapter shall be due and payable nine (9) months after a decedent's death and shall be paid by the executor to the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 4200. Arkansas Code § 26-59-113(b)(1)(A), concerning payment, time limitations, and federal elections, is amended to read as follows:

(b)(1)(A) When the ~~director~~ secretary finds that the payment on the due date of the tax or any part of the tax would impose undue hardship upon the estate, the ~~director~~ secretary may extend the time for any payment of any such part.

SECTION 4201. Arkansas Code § 26-59-114(a) and (b), concerning the payment of tax and discharge of executors, are amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration shall issue to the executor upon payment of the tax imposed by this chapter receipts in triplicate any of which shall be sufficient evidence of the payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle the executor's accounts.

(b) If the executor files a complete return and makes written application to the ~~director~~ secretary for determination of the amount of the tax and discharge from personal liability, the ~~director~~ secretary as soon as possible, and in any event within one (1) year after receipt of such application, shall notify the executor of the amount of the tax and, upon payment thereof, the executor shall be discharged from personal liability for any additional tax thereafter found to be due and shall be entitled to receive from the ~~director~~ secretary a receipt in writing showing such discharge.

SECTION 4202. Arkansas Code § 26-59-116(b), concerning the payment of taxes and reimbursement to a person paying taxes, is amended to read as follows:

(b) It is the purpose and intent of this section that insofar as is

1 practical and unless otherwise directed by the will of the decedent, the tax
2 shall be paid out of the estate before its distribution. However, the
3 ~~Director~~ Secretary of the Department of Finance and Administration shall not
4 be charged with enforcing contribution from any person.

5
6 SECTION 4203. Arkansas Code § 26-59-119 is amended to read as follows:

7 26-59-119. Executor – Notice of appointment.

8 The executor within two (2) months after the decedent's death or within
9 a like period after qualifying as executor, shall give written notice of his
10 or her qualification as executor to the ~~Director~~ Secretary of the Department
11 of Finance and Administration.

12
13 SECTION 4204. Arkansas Code § 26-59-122(a), concerning the disposition
14 and allocation of funds, is amended to read as follows:

15 (a) All taxes, fees, penalties, and costs received by the ~~Director~~
16 Secretary of the Department of Finance and Administration under the
17 provisions of this chapter shall be general revenues and shall be deposited
18 into the State Treasury to the credit of the State Apportionment Fund, except
19 that the amount of estate taxes collected in a calendar year that exceeds ten
20 percent (10%) of the average annual estate taxes collected for a five-year
21 period immediately preceding the calendar year or fifteen million dollars
22 (\$15,000,000), whichever is greater, shall be deposited into the State
23 Treasury as special revenues and credited to the General Improvement Fund.

24
25 SECTION 4205. Arkansas Code § 26-60-103 is amended to read as follows:

26 26-60-103. Enforcement and regulations by ~~Director~~ Secretary of the
27 Department of Finance and Administration.

28 The enforcement of the provisions of this chapter shall be the
29 responsibility of the ~~Director~~ Secretary of the Department of Finance and
30 Administration under regulations to be promulgated by the ~~director~~ secretary.

31
32 SECTION 4206. Arkansas Code § 26-60-107(a)(1), concerning a Real
33 Property Transfer Tax Affidavit of Compliance Form, is amended to read as
34 follows:

35 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
36 Administration shall design a "Real Property Transfer Tax Affidavit of

1 Compliance” form.

2

3 SECTION 4207. Arkansas Code § 26-60-107(b)(2), concerning a Real
4 Property Transfer Tax Affidavit of Compliance Form, is amended to read as
5 follows:

6 (2) The ~~director~~ secretary shall furnish the “Real Property
7 Transfer Tax Affidavit of Compliance” forms to each revenue office in each
8 county of this state and may make these forms available to the county
9 recorder or any other interested persons in each county upon request to the
10 ~~director~~ secretary.

11

12 SECTION 4208. Arkansas Code § 26-60-107(d)(1), concerning a Real
13 Property Transfer Tax Affidavit of Compliance Form, is amended to read as
14 follows:

15 (d)(1) The affidavits in the files of the ~~director~~ secretary are
16 public records governed by the same rules as are applied to the disclosure of
17 motor vehicle titling and registration information.

18

19 SECTION 4209. The introductory language of Arkansas Code § 26-60-
20 107(f), concerning a Real Property Transfer Tax Affidavit of Compliance Form,
21 is amended to read as follows:

22 (f) The ~~director~~ secretary may:

23

24 SECTION 4210. Arkansas Code § 26-60-107(f)(1)(B) and (C), concerning a
25 Real Property Transfer Tax Affidavit of Compliance Form, are amended to read
26 as follows:

27 (B) The ~~director~~ secretary shall collaborate with
28 attorneys at law, representatives of title companies, county recorders, and
29 other interested parties to recommend an alternative method of providing
30 proof of compliance with the real property transfer tax.

31 (C) If an investigation is undertaken, the ~~director~~
32 secretary shall complete the investigation by July 1, 2012; and

33

34 SECTION 4211. Arkansas Code § 26-60-107(f)(2)(B), concerning a Real
35 Property Transfer Tax Affidavit of Compliance Form, is amended to read as
36 follows:

1 (B) Before promulgating any rules, the ~~director~~ secretary
2 shall report the finding of the investigation authorized under subdivision
3 (f)(1) of this section to the Speaker of the House of Representatives and the
4 President Pro Tempore of the Senate if the General Assembly is in session or
5 to the Legislative Council during an interim.

6
7 SECTION 4212. Arkansas Code § 26-60-108 is amended to read as follows:
8 26-60-108. Real Property Transfer Tax Affidavit of Compliance and
9 Receipt – Completion, storage, audit, etc.

10 (a) The ~~Director~~ Secretary of the Department of Finance and
11 Administration or his or her agent before accepting payment of the real
12 property transfer tax shall require that the affidavit portion of the Real
13 Property Transfer Tax Affidavit of Compliance form and receipt be completed,
14 including the statement of the full amount of the consideration for the
15 transaction and the amount of tax to be reflected on the receipt portion
16 thereof in evidence that such information was furnished by the person signing
17 the affidavit before the ~~director~~ secretary shall receive payment of the tax,
18 and sign the receipt. The ~~director~~ secretary shall attach the stamps to the
19 face of the instrument.

20 (b)(1) The original copy of the affidavit and receipt shall be
21 retained by the ~~director~~ secretary or his or her agent and shall be treated
22 as a confidential tax record in the same manner as required by law for
23 confidentiality of state income tax returns.

24 (2) The information shall be released to duly elected county
25 assessors and become a public document.

26 (c) If authorized by the ~~director~~ secretary, an electronic copy of an
27 affidavit described in this section may be used and retained in the same
28 manner as other electronic documents.

29
30 SECTION 4213. The introductory language of Arkansas Code § 26-60-
31 109(a), concerning documentary stamps or symbols, is amended to read as
32 follows:

33 (a) The ~~Director~~ Secretary of the Department of Finance and
34 Administration shall:

35
36 SECTION 4214. The introductory language of Arkansas Code § 26-60-

1 109(b), concerning documentary stamps or symbols, is amended to read as
2 follows:

3 (b) The ~~director~~ secretary may:

4
5 SECTION 4215. Arkansas Code § 26-60-109(b)(1)(B) and (C), concerning
6 documentary stamps or symbols, are amended to read as follows:

7 (B) The ~~director~~ secretary shall collaborate with
8 attorneys at law, representatives of title companies, county recorders, and
9 other interested parties to recommend possible alternative methods of
10 providing proof of payment of the real property transfer tax.

11 (C) If an investigation is undertaken, the ~~director~~
12 secretary shall complete the investigation by July 1, 2012; and

13
14 SECTION 4216. Arkansas Code § 26-60-109(b)(2)(B), concerning
15 documentary stamps or symbols, is amended to read as follows:

16 (B) Before promulgating any rules, the ~~director~~ secretary
17 shall report the finding of the investigation authorized under § 26-60-
18 107(f)(1) to the Speaker of the House of Representatives and the President
19 Pro Tempore of the Senate if the General Assembly is in session or to the
20 Legislative Council during the interim.

21
22 SECTION 4217. The introductory language of Arkansas Code § 26-60-
23 112(b), concerning the disposition of funds collected from taxes, is amended
24 to read as follows:

25 (b) The revenues derived from the tax levied by § 26-60-105(a) shall
26 be deposited by the ~~Director~~ Secretary of the Department of Finance and
27 Administration into the State Treasury, and the Treasurer of State after
28 deducting three percent (3%) of the revenues for distribution to the
29 Constitutional Officers Fund and the State Central Services Fund to be used
30 for the purposes as provided by law shall distribute the net amount of the
31 revenues as follows:

32
33 SECTION 4218. Arkansas Code § 26-62-102(4) and (5), concerning the
34 definitions under the alternative fuels tax laws, are amended to read as
35 follows:

36 ~~(4) "Director" means the Director of the Department of Finance~~

1 ~~and Administration or his or her duly authorized agents;~~

2 (5) "Gallon equivalent" or "equivalent gallon" means a quantity
3 of alternative fuels which is the equivalent of one United States gallon (1
4 U.S. gal.) of gasoline as determined by the ~~director~~ secretary based on
5 United States standards or industry standards, provided that one United
6 States gallon (1 U.S. gal.) of gasoline shall be the equivalent of one
7 hundred cubic feet (100 c.f.) of natural gas fuels;

8
9 SECTION 4219. Arkansas Code § 26-62-104 is amended to read as follows:
10 26-62-104. Rules and regulations.

11 The ~~Director~~ Secretary of the Department of Finance and Administration
12 is authorized and empowered in consultation with the Director of State
13 Highways and Transportation of the Arkansas Department of Transportation to
14 make and promulgate such rules and regulations not inconsistent with this
15 chapter as they shall deem necessary and desirable to facilitate the
16 collection of the taxes levied in this chapter and to otherwise effectuate
17 the purposes of this chapter, and these rules and regulations shall have the
18 same effect as if specifically set forth in this chapter.

19
20 SECTION 4220. Arkansas Code § 26-62-105(a), concerning the failure or
21 refusal to report or pay taxes, is amended to read as follows:

22 (a) Once an alternative fuels supplier, user, interstate user, or IFTA
23 carrier user of alternative fuels has become liable to file a report with the
24 ~~Director~~ Secretary of the Department of Finance and Administration, he or she
25 must continue to file a report, even though no tax is due, until such time as
26 he or she notifies the ~~director~~ secretary in writing that he or she is no
27 longer liable for those reports.

28
29 SECTION 4221. Arkansas Code § 26-62-111 is amended to read as follows:
30 26-62-111. Audits.

31 In all audits conducted by the Arkansas Department of Transportation
32 under this chapter, the Arkansas Department of Transportation may call upon
33 the ~~Director~~ Secretary of the Department of Finance and Administration for
34 assistance.

35
36 SECTION 4222. Arkansas Code § 26-62-201(a)(2), concerning the

1 imposition of taxes and exemptions, is amended to read as follows:

2 (2) The ~~Director~~ Secretary of the Department of Finance and
3 Administration shall determine the various types of alternative fuels being
4 utilized in this state and the applicable rates to be imposed for each type
5 fuel in accordance with the following provisions of this section, provided
6 that the ~~Director~~ Secretary of the Department of Finance and Administration
7 in his or her initial determination at a minimum shall find at least one (1)
8 type of alternative fuels, specifically, natural gas fuels.

9

10 SECTION 4223. Arkansas Code § 26-62-201(c)(1), concerning the
11 imposition of taxes and exemptions, is amended to read as follows:

12 (c)(1)(A)~~(i) The tax rate set forth in subsection (b) of this section~~
13 ~~for each type of alternative fuels from July 1, 1993, through March 31, 1994,~~
14 ~~shall be determined and published by the Director of the Department of~~
15 ~~Finance and Administration prior to June 1, 1993, and such rates shall be~~
16 ~~effective for each type of alternative fuels through March 31, 1994.~~

17 ~~(ii)~~ The tax rate set forth in subsection (b) of
18 this section for each type of alternative fuels shall be adjusted if
19 necessary by the ~~Director~~ Secretary of the Department of Finance and
20 Administration ~~to be effective on April 1, 1994, and~~ on April 1 of each year
21 ~~thereafter~~ based upon the number of vehicles utilizing alternative fuels, by
22 each type of alternative fuels, licensed in this state, as determined by the
23 ~~Director~~ Secretary of the Department of Finance and Administration, as of
24 December 31 of the preceding calendar year.

25 (B) If a change in the tax rate in accordance with
26 subsection (b) of this section for any type of alternative fuels is required,
27 the ~~Director~~ Secretary of the Department of Finance and Administration shall
28 include this in the report required by this section, and the ~~Director~~
29 Secretary of the Department of Finance and Administration shall also notify
30 each alternative fuels supplier of the new tax rate not later than thirty
31 (30) days prior to the effective date of such change.

32

33 SECTION 4224. Arkansas Code § 26-62-201(e) and (f), concerning the
34 imposition of taxes and exemptions, are amended to read as follows:

35 (e)(1) The ~~Director~~ Secretary of the Department of Finance and
36 Administration may develop a procedure in which the type of alternative fuels

1 or other type of fuel is noted on the certificate of title or certificate of
2 registration of an alternative fuels vehicle.

3 (2) It is the intention of this subsection to develop a system
4 for the ~~Director~~ Secretary of the Department of Finance and Administration
5 and other officials of the State of Arkansas to know the precise number of
6 vehicles using alternative fuels and other fuels licensed in this state, both
7 in the aggregate and by the type of fuel propelling the vehicles.

8 (f) Not later than February 15 each year, the ~~Director~~ Secretary of
9 the Department of Finance and Administration shall file a written report with
10 the Director of State Highways and Transportation setting forth the number of
11 vehicles using alternative fuels and other types of fuels licensed in this
12 state as of the end of the preceding calendar year, both in the aggregate and
13 by each type of fuel, and the amount of tax revenue received by the State of
14 Arkansas on the tax levied by this chapter. The ~~Director~~ Secretary of the
15 Department of Finance and Administration shall also state the tax rate for
16 the next twelve (12) months, beginning as of the first day of April of each
17 year for each type of alternative fuel.

18
19 SECTION 4225. Arkansas Code § 26-62-202(a)(3), concerning the
20 collection and payment of tax, is amended to read as follows:

21 (3) Used in any motor vehicle owned or operated by that
22 alternative fuels supplier. The ~~Director~~ Secretary of the Department of
23 Finance and Administration shall make and promulgate rules and regulations
24 for a system for recordkeeping requirements to be kept by such suppliers in
25 fulfilling this subdivision (a)(3).

26
27 SECTION 4226. Arkansas Code § 26-62-203(c)(1), concerning separate
28 meters for taxable natural gas fuels and residential or other tax-free
29 natural gas, is amended to read as follows:

30 (c)(1) Such users shall be licensed and bonded only if required by §
31 26-62-204 but shall remit all taxes to the alternative fuels supplier upon
32 billing by that supplier, which supplier shall further remit such taxes to
33 the ~~Director~~ Secretary of the Department of Finance and Administration as
34 provided in § 26-62-206.

35
36 SECTION 4227. The introductory language of Arkansas Code § 26-62-

1 203(c)(2), concerning separate meters for taxable natural gas fuels and
2 residential or other tax-free natural gas, is amended to read as follows:

3 (2) Such user, however, at the time of the installation of the
4 separate meter shall report to the ~~director~~ secretary the:

5
6 SECTION 4228. Arkansas Code § 26-62-203(c)(2)(E), concerning separate
7 meters for taxable natural gas fuels and residential or other tax-free
8 natural gas, is amended to read as follows:

9 (E) Any other information required by the ~~director~~
10 secretary pursuant to rules and regulations of the ~~director~~ secretary.

11
12 SECTION 4229. Arkansas Code § 26-62-204(a), concerning licenses and
13 bonds for alternative fuels suppliers, interstate users, and IFTA carrier
14 users, is amended to read as follows:

15 (a) No person shall commence operations as an alternative fuels
16 supplier, interstate user, or IFTA carrier user of alternative fuels without
17 first procuring a license for that purpose from the ~~Director~~ Secretary of the
18 Department of Finance and Administration. This license shall be issued and
19 remain in effect until revoked as provided in this section.

20
21 SECTION 4230. Arkansas Code § 26-62-204(c), concerning licenses and
22 bonds for alternative fuels suppliers, interstate users, and IFTA carrier
23 users, is amended to read as follows:

24 (c)(1)(A) Every alternative fuels supplier shall file with the
25 ~~director~~ secretary a surety bond of not less than one and one-half (1½) times
26 or one hundred fifty percent (150%) of the prior six-months' average
27 alternative fuels tax due which is based upon the gallon equivalent of
28 alternative fuels to be sold or distributed:

29 (i) As shown by the application for a license if the
30 applicant has not previously been engaged in the business of an alternative
31 fuels supplier; or

32 (ii) As shown by sales for the previous year if the
33 applicant previously has been engaged in such business in this state.

34 (B) However, no bond shall be filed for less than one
35 thousand dollars (\$1,000).

36 (2) If the ~~director~~ secretary deems it necessary to protect the

1 state in the collection of alternative fuels taxes, the ~~director~~ secretary
2 may require any alternative fuels supplier to post a bond in an amount up to
3 three (3) times or three hundred percent (300%) of the prior six (6) months'
4 average alternative fuels tax due.

5 (3)(A) However, the ~~director~~ secretary is authorized to waive
6 the posting of bond by any licensed alternative fuels supplier organized and
7 operating under the laws of Arkansas and wholly owned by residents of this
8 state who has been licensed for a period of at least three (3) years and who
9 has not been delinquent in remitting alternative fuels taxes during the
10 three-year period immediately preceding application by the alternative fuels
11 supplier for waiver of bond.

12 (B) If any alternative fuels supplier whose bond has been
13 waived by the ~~director~~ secretary as authorized in subdivision (c)(3)(A) of
14 this section subsequently becomes delinquent in remitting alternative fuels
15 taxes to the ~~director~~ secretary, the ~~director~~ secretary may require that the
16 alternative fuels supplier post a bond in the amount required in this
17 section, and the alternative fuels supplier shall not be eligible to petition
18 for a waiver of bond for a period of three (3) years thereafter.

19
20 SECTION 4231. Arkansas Code § 26-62-204(d)(1), concerning licenses and
21 bonds for alternative fuels suppliers, interstate users, and IFTA carrier
22 users, is amended to read as follows:

23 (d)(1) Each application of an interstate user or IFTA carrier user for
24 a license shall be accompanied by a surety bond of a surety company
25 authorized to do business in this state, in favor of the ~~director~~ secretary,
26 satisfactory to the ~~director~~ secretary, and in an amount to be fixed by the
27 ~~director~~ secretary of not less than one thousand dollars (\$1,000) nor more
28 than fifty thousand dollars (\$50,000), guaranteeing the payment of any and
29 all taxes, penalties, interest, attorney's fees, and costs levied by,
30 accrued, or accruing under this chapter.

31
32 SECTION 4232. Arkansas Code § 26-62-204(e)(2), concerning licenses and
33 bonds for alternative fuels suppliers, interstate users, and IFTA carrier
34 users, is amended to read as follows:

35 (2) The bond shall be conditioned upon the prompt filing of true
36 reports and the payment by the alternative fuels supplier, interstate user,

1 or IFTA carrier user to the ~~director~~ secretary of any and all alternative
2 fuels taxes which are levied or imposed by the State of Arkansas, together
3 with any and all penalties and interest thereon, and generally, upon faithful
4 compliance with the provisions of this chapter.

5
6 SECTION 4233. Arkansas Code § 26-62-204(f)-(i), concerning licenses
7 and bonds for alternative fuels suppliers, interstate users, and IFTA carrier
8 users, are amended to read as follows:

9 (f)(1) In the event that liability upon the bond filed pursuant to
10 this section by the alternative fuels supplier, interstate user, or IFTA
11 carrier user with the ~~director~~ secretary shall be discharged or reduced,
12 whether by judgment rendered, payment made, or otherwise, or if, in the
13 opinion of the ~~director~~ secretary, any surety on the bond shall have become
14 unsatisfactory or unacceptable, then the ~~director~~ secretary may require the
15 filing of a new bond with a satisfactory surety in the same form and amount;
16 failing which, the ~~director~~ secretary shall immediately cancel the license of
17 the alternative fuels supplier, interstate user, or IFTA carrier user.

18 (2) If a new bond shall be furnished, the ~~director~~ secretary
19 shall cancel the bonds for which the new bond shall be substituted.

20 (g) In the event that upon hearing of which the alternative fuels
21 supplier, interstate user, or IFTA carrier user shall be given five (5) days'
22 notice in writing, the ~~director~~ secretary shall decide that the amount of the
23 existing bond is insufficient to ensure payment to the State of Arkansas of
24 the amount of the tax and any penalties and interest for which said
25 alternative fuels supplier, interstate user, or IFTA carrier user is or may
26 at any time become liable, then the alternative fuels supplier, interstate
27 user, or IFTA carrier user upon written demand of the ~~director~~ secretary
28 shall immediately file an additional bond in the same manner and form and
29 with a surety company thereon approved by the ~~director~~ secretary in any
30 amount determined by the ~~director~~ secretary to be necessary to secure at all
31 times the payment to the State of Arkansas of all taxes, penalties, and
32 interest due under the provisions of this chapter; failing which, the
33 ~~director~~ secretary shall immediately cancel the license of the alternative
34 fuels supplier, interstate user, or IFTA carrier user.

35 (h)(1)(A) Any surety on any bond furnished as provided in this section
36 shall be released and discharged from any and all liability to the State of

1 Arkansas accruing on the bond after the expiration of sixty (60) days from
2 the date upon which a surety shall have lodged with the ~~director~~ secretary a
3 written request to be released and discharged.

4 (B) However, the request shall not operate to relieve,
5 release, or discharge the surety from any liability already accrued, or which
6 shall accrue, before the expiration of the sixty-day period.

7 (2) Upon receipt of notice of such request, the ~~director~~
8 secretary shall promptly notify the alternative fuels supplier, interstate
9 user, or IFTA carrier user who furnished the bond, and unless the alternative
10 fuels supplier, interstate user, or IFTA carrier user, on or before the
11 expiration of the sixty-day period, files with the ~~director~~ secretary a new
12 bond with a surety company satisfactory to the ~~director~~ secretary in the
13 amount and form as provided in this section, the ~~director~~ secretary shall
14 immediately cancel the license of that alternative fuels supplier, interstate
15 user, or IFTA carrier user.

16 (3) If a new bond shall be furnished as provided in this
17 section, the ~~director~~ secretary shall cancel the bond for which the new bond
18 shall be substituted.

19 (i) In lieu of furnishing a bond or bonds executed by a surety company
20 as provided in this section, any alternative fuels supplier, interstate user,
21 or IFTA carrier user may furnish a bond or other instrument, in form
22 prescribed by the ~~director~~ secretary, equal to the amount of the bond or
23 bonds required by this section which will provide security or payment of all
24 amounts as described in this section and in compliance with all provisions of
25 this chapter.

26
27 SECTION 4234. Arkansas Code § 26-62-204(j)(2), concerning licenses and
28 bonds for alternative fuels suppliers, interstate users, and IFTA carrier
29 users, are amended to read as follows:

30 (2)(A) Should his or her license be revoked, any alternative
31 fuels supplier, interstate user, or IFTA carrier user may bring an action
32 against the ~~director~~ secretary in the Pulaski County Circuit Court within
33 fifteen (15) days of the date of revocation to determine whether or not the
34 alternative fuels supplier, interstate user, or IFTA carrier user has in fact
35 violated any of the provisions of this chapter.

36 (B) If the court determines that the provisions of the law

1 have been violated by the alternative fuels supplier, interstate user, or
2 IFTA carrier user, it shall affirm the ~~director's~~ secretary's action in
3 revoking the license.

4
5 SECTION 4235. Arkansas Code § 26-62-205(a)(2)(F), concerning sales
6 tickets in regards to alternative fuels, is amended to read as follows:

7 (F) Such other information as the ~~Director~~ Secretary of
8 the Department of Finance and Administration may require.

9
10 SECTION 4236. Arkansas Code § 26-62-205(b)(2), concerning sales
11 tickets in regards to alternative fuels, is amended to read as follows:

12 (2) The remaining copy shall be retained by the alternative
13 fuels supplier as a record for a period of at least three (3) years, during
14 which period it shall be subject to inspection by the ~~Director~~ Secretary of
15 the Department of Finance and Administration or his or her representative at
16 all reasonable times.

17
18 SECTION 4237. Arkansas Code § 26-62-205(c), concerning sales tickets
19 in regards to alternative fuels, is amended to read as follows:

20 (c) The sales tickets as described in subsections (a) and (b) of this
21 section shall be the only evidence accepted for tax credit by the ~~Director~~
22 Secretary of the Department of Finance and Administration under the
23 provisions of § 26-62-209.

24
25 SECTION 4238. Arkansas Code § 26-62-205(e)(1), concerning sales
26 tickets in regards to alternative fuels, is amended to read as follows:

27 (e)(1) The ~~Director~~ Secretary of the Department of Finance and
28 Administration, in consultation with the Director of State Highways and
29 Transportation shall promulgate rules and regulations regarding an
30 alternative to the required usage of sales tickets for all sales of natural
31 gas fuels made by alternative fuels suppliers by separate meter as provided
32 in § 26-62-203.

33
34 SECTION 4239. Arkansas Code § 26-62-206(a)(1), concerning alternative
35 fuels suppliers' and users' reports and computation and remittance of tax, is
36 amended to read as follows:

1 (a)(1) Every alternative fuels supplier on or before the twenty-fifth
2 day of each calendar month shall file with the ~~Director~~ Secretary of the
3 Department of Finance and Administration on forms prescribed by the ~~director~~
4 secretary a report accounting for the alternative fuels taxable under this
5 chapter during the preceding month and shall remit all taxes as reflected by
6 the report to the ~~director~~ secretary at the time of filing such report.

7
8 SECTION 4240. Arkansas Code § 26-62-206(a)(2)(D), concerning
9 alternative fuels suppliers' and users' reports and computation and
10 remittance of tax, is amended to read as follows:

11 (D) Such other documents as the ~~director~~ secretary
12 requires.

13
14 SECTION 4241. Arkansas Code § 26-62-206(b), concerning alternative
15 fuels suppliers' and users' reports and computation and remittance of tax, is
16 amended to read as follows:

17 (b) Every interstate user and IFTA carrier user, on or before the
18 twenty-fifth day of the month following the end of each calendar quarter,
19 shall file with the ~~director~~ secretary on forms prescribed by the ~~director~~
20 secretary an itemized report showing the quantities of alternative fuels
21 purchased and used in this state during the preceding calendar quarter,
22 together with payments of the tax due thereon.

23
24 SECTION 4242. Arkansas Code § 26-62-207(b)(3)(B), concerning the
25 requirement of records, invoices, and the falsification of records in regards
26 to the Arkansas Tax Procedure Act, is amended to read as follows:

27 (B) Another counterpart shall be delivered to the operator
28 of the motor vehicle and carried in the cab compartment of the motor vehicle
29 for inspection by the ~~Director~~ Secretary of the Department of Finance and
30 Administration or his or her representatives until the fuel it covers has
31 been consumed.

32
33 SECTION 4243. Arkansas Code § 26-62-207(c)(1), concerning the
34 requirement of records, invoices, and the falsification of records in regards
35 to the Arkansas Tax Procedure Act, is amended to read as follows:

36 (c)(1) Every person who operates a motor vehicle that is equipped to

1 use motor fuels taxable under the Motor Fuel Tax Law, § 26-55-201 et seq., or
2 equipped to use distillate special fuels taxable under the Special Motor
3 Fuels Tax Law, § 26-56-101 et seq., and alternative fuels interchangeably in
4 the propulsion of the motor vehicle shall carry in the cab compartment of the
5 motor vehicle for inspection by the ~~director~~ secretary or his or her
6 representative not only the counterpart of the serially-numbered invoice
7 required under subsection (b) of this section for the delivery of alternative
8 fuels into the fuel supply tanks of the motor vehicle but also an invoice or
9 receipt from the seller for each delivery into the fuel supply tanks of the
10 motor vehicle of motor fuels taxable under the Motor Fuel Tax Law, § 26-55-
11 201 et seq., or of distillate special fuels taxable under the Special Motor
12 Fuels Tax Law, § 26-56-101 et seq., which latter invoices or receipts shall
13 show the same information as to date of delivery, quantity, odometer or hub
14 meter mileage, and motor vehicle registration number as is required for the
15 invoice covering alternative fuels.

16
17 SECTION 4244. Arkansas Code § 26-62-207(e), concerning the requirement
18 of records, invoices, and the falsification of records in regards to the
19 Arkansas Tax Procedure Act, is amended to read as follows:

20 (e) All sales to users made pursuant to § 26-62-203 shall not require
21 the carriage of an invoice by the user, provided that the ~~director~~ secretary
22 shall provide by regulation another means of providing an indication that the
23 tax on the fuel being utilized to propel the motor vehicle will ultimately be
24 paid by the user to the alternative fuels supplier, who is required to remit
25 such tax to the ~~director~~ secretary.

26
27 SECTION 4245. Arkansas Code § 26-62-208(a), concerning prima facie
28 presumptions, failure to keep records, issuing of invoices or file reports,
29 taxes, penalties, and interest in regards to alternate fuel suppliers, is
30 amended to read as follows:

31 (a) Any alternative fuels supplier, user, interstate user, or IFTA
32 carrier user who fails to keep the records, issue the invoices, or file the
33 reports required by this chapter shall be prima facie presumed to have sold,
34 delivered, or used for taxable purposes all alternative fuels shown by a
35 verified audit by the Arkansas Department of Transportation, the ~~Director~~
36 Secretary of the Department of Finance and Administration, or any authorized

1 representative.

2

3 SECTION 4246. Arkansas Code § 26-62-208(b)(1), concerning prima facie
4 presumptions, failure to keep records, issuing of invoices or file reports,
5 taxes, penalties, and interest in regards to alternate fuel suppliers, is
6 amended to read as follows:

7 (b)(1) The ~~director~~ secretary is authorized to fix or establish the
8 amount of taxes, penalties, and interest due the State of Arkansas from any
9 record or information available to the ~~director~~ secretary, or to the Arkansas
10 Department of Transportation, and if the tax claim as developed from that
11 procedure is not paid, the claim and any audit made by the Arkansas
12 Department of Transportation, the ~~director~~ secretary, or an authorized
13 representative, or any report filed by such alternative fuels supplier, user,
14 interstate user, or IFTA carrier user shall be admissible in evidence in any
15 suit or judicial proceedings filed by the ~~director~~ secretary and shall be
16 prima facie evidence of the correctness of said claim or audit.

17

18 SECTION 4247. Arkansas Code § 26-62-209(a) and (b), concerning
19 interstate users and IFTA carrier users, reports, and computation of tax and
20 refunds, are amended to read as follows:

21 (a) For the purpose of determining whether an interstate user or IFTA
22 carrier user owes alternative fuels tax or is entitled to a credit or refund,
23 the licensed interstate user or licensed IFTA carrier user shall file a
24 quarterly report on or before the twenty-fifth day of the month following the
25 end of each calendar quarter, which shall be made on forms prescribed by the
26 ~~Director~~ Secretary of the Department of Finance and Administration, which
27 forms shall include such information as the ~~director~~ secretary may require.

28 (b) If it shall be determined by the quarterly report that the
29 licensed interstate user or licensed IFTA carrier user has used alternative
30 fuels in this state in excess of the number of equivalent gallons of the fuel
31 upon which the Arkansas tax had been paid, the interstate user or IFTA
32 carrier user shall remit to the ~~director~~ secretary at the time of filing the
33 report an excise tax at the rate as previously determined in accordance with
34 § 26-62-201 per equivalent gallon for the taxable quarter multiplied by the
35 number of equivalent gallons used on which the tax has not been paid.

36

1 SECTION 4248. Arkansas Code § 26-62-209(h)(2), concerning interstate
2 users and IFTA carrier users, reports, and computation of tax and refunds,
3 are amended to read as follows:

4 (2) A licensed interstate user or licensed IFTA carrier user who
5 has a total tax liability for alternative fuels tax during the previous
6 calendar year of less than one hundred dollars (\$100) upon application to the
7 ~~director~~ secretary may obtain permission to report his or her alternative
8 fuels tax liability on an annual basis. The annual report shall be due on or
9 before the twenty-fifth day of the month following the end of each fiscal
10 year.

11
12 SECTION 4249. Arkansas Code § 26-62-209(i), concerning interstate
13 users and IFTA carrier users, reports, and computation of tax and refunds,
14 are amended to read as follows:

15 (i) The ~~director~~ secretary shall prescribe the appropriate forms
16 necessary for the administration of this chapter. The ~~director~~ secretary may
17 make appropriate rules and regulations necessary to ensure the accurate
18 reporting of the alternative fuels tax.

19
20 SECTION 4250. Arkansas Code § 26-62-210(a)(1), concerning interstate
21 users and IFTA carrier users as well as tax refund procedure, is amended to
22 read as follows:

23 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
24 Administration shall quarterly estimate the amount necessary to pay refunds
25 to licensed interstate users and licensed IFTA carrier users of alternative
26 fuels who are entitled to refunds with respect to alternative fuels taxes
27 paid in this state as authorized in § 26-62-209, and upon certification by
28 the ~~Director~~ Secretary of the Department of Finance and Administration, the
29 Treasurer of State shall transfer from the gross amount of alternative fuels
30 taxes collected each month the amount to the Interstate Alternative Fuels
31 Refund Fund, which is established on the books of the State Treasury, from
32 which the Department of Finance and Administration shall make refunds as
33 provided by law.

34
35 SECTION 4251. Arkansas Code § 26-62-210(c), concerning interstate
36 users and IFTA carrier users as well as tax refund procedure, is amended to

1 read as follows:

2 (c) Neither the ~~Director~~ Secretary of the Department of Finance and
3 Administration nor any member or employee of the Department of Finance and
4 Administration shall be held personally liable for making any refund by
5 reason of a fraudulent claim's being filed as a basis for such refund.

6

7 SECTION 4252. The introductory language of Arkansas Code § 26-62-
8 210(d), concerning interstate users and IFTA carrier users as well as tax
9 refund procedure, is amended to read as follows:

10 (d) The ~~Director~~ Secretary of the Department of Finance and
11 Administration in consultation with the Director of State Highways and
12 Transportation is authorized to promulgate rules and regulations and to
13 prescribe the necessary forms required for the administration of claims for
14 tax refunds from licensed interstate users or licensed IFTA carrier users of
15 alternative fuels in this state as authorized by law, which rules and
16 regulations shall be in conformance with the following requirements:

17

18 SECTION 4253. Arkansas Code § 26-62-210(d)(1) and (2), concerning
19 interstate users and IFTA carrier users as well as tax refund procedure, are
20 amended to read as follows:

21 (1) The ~~Director~~ Secretary of the Department of Finance and
22 Administration shall first determine with respect to each refund claim filed
23 that the bond of the interstate user or IFTA carrier user is adequate to
24 compensate the State of Arkansas for any losses with respect to the recovery
25 of any refunds illegally claimed by such user, and the ~~Director~~ Secretary of
26 the Department of Finance and Administration may require the increase of the
27 bond if the ~~Director~~ Secretary of the Department of Finance and
28 Administration determines it to be inadequate before approving any such claim
29 for refund;

30 (2) Each licensed interstate user or licensed IFTA carrier user
31 of alternative fuels claiming refunds shall maintain adequate records to
32 substantiate each claim for refund, and the ~~Director~~ Secretary of the
33 Department of Finance and Administration may reject any claim for refund if
34 the ~~Director~~ Secretary of the Department of Finance and Administration
35 determines the applicant has not maintained adequate records or has not
36 conformed to the rules and regulations of the Department of Finance and

1 Administration in filing the claim therefor;

2

3 SECTION 4254. Arkansas Code § 26-62-210(d)(5), concerning interstate
4 users and IFTA carrier users as well as tax refund procedure, is amended to
5 read as follows:

6 (5) The ~~Director~~ Secretary of the Department of Finance and
7 Administration is authorized to promulgate any such rules or regulations the
8 ~~Director~~ Secretary of the Department of Finance and Administration deems
9 desirable in consultation with the Director of State Highways and
10 Transportation regarding refunds to licensed interstate users and IFTA
11 carrier users.

12

13 SECTION 4255. Arkansas Code § 26-62-211(a) and (b), concerning entry
14 slips, tax on out-of-state motor vehicle use, and penalties, are amended to
15 read as follows:

16 (a) Any unlicensed alternative fuels user, unless exempt from the tax
17 levied herein, operating an out-of-state motor vehicle, upon entering the
18 State of Arkansas, at the point of entry shall secure a copy of an entry slip
19 from the ~~Director~~ Secretary of the Department of Finance and Administration
20 or his or her authorized agent or employee.

21 (b) The entry slip shall be signed by the ~~director~~ secretary or his or
22 her authorized agent or employee, and the entry slip shall also be signed by
23 the driver of the vehicle.

24

25 SECTION 4256. Arkansas Code § 26-62-211(d), concerning entry slips,
26 tax on out-of-state motor vehicle use, and penalties, is amended to read as
27 follows:

28 (d) The entry slip shall remain in the vehicle for the remainder of
29 the trip over the highways of this state and shall be produced for the
30 inspection of the ~~director~~ secretary or his or her authorized employee or
31 representative, at any point within the state and shall also be produced at
32 the port of exit to the ~~director~~ secretary or his or her authorized agent or
33 employee, for determination of any alternative fuels taxes due the state.

34

35 SECTION 4257. The introductory language of Arkansas Code § 26-62-
36 211(g)(1)(B), concerning entry slips, tax on out-of-state motor vehicle use,

1 and penalties, is amended to read as follows:

2 (B) At the time of the purchase of the fuels, the owner or
3 operator of such vehicle shall obtain from the alternative fuels supplier
4 from whom purchased an invoice or sales ticket, on forms approved by the
5 ~~director~~ secretary, which shall contain the:

6
7 SECTION 4258. Arkansas Code § 26-62-211(g)(1)(C), concerning the
8 content of invoices, is amended to read as follows:

9 (C) The invoice or sales ticket shall remain in the
10 vehicle for the remainder of the trip over the highways of this state. The
11 invoice or sales ticket shall be preserved and retained by the owner or
12 operator for a period of not less than three (3) years and shall be produced
13 for the inspection and examination of the ~~director~~ secretary or his or her
14 authorized agent or employee, at any reasonable time and place, either within
15 or without this state, upon proper demand therefor;

16

17 SECTION 4259. Arkansas Code § 26-62-211(g)(2)(A), concerning entry
18 slips, tax on out-of-state motor vehicle use, and penalties, is amended to
19 read as follows:

20 (2)(A) By the payment to the ~~director~~ secretary or to his or her
21 agent, representative, or employee of the amount of tax which would be due
22 upon a sufficient quantity, as determined above, of alternative fuels to
23 propel the vehicle over the highways of this state.

24

25 SECTION 4260. The introductory language of Arkansas Code § 26-62-
26 211(g)(2)(B), concerning entry slips, tax on out-of-state motor vehicle use,
27 and penalties, is amended to read as follows:

28 (B) At the time of payment of the tax, the ~~director~~
29 secretary or his or her employee or representative shall issue to the person
30 paying the tax a receipt showing:

31

32 SECTION 4261. Arkansas Code § 26-62-211(g)(2)(B)(vi), concerning entry
33 slips, tax on out-of-state motor vehicle use, and penalties, are amended to
34 read as follows:

35 (vi) Any other information which the ~~director~~
36 secretary may require,

1 which receipt shall be signed by the ~~director~~ secretary or his or her agent
2 or representative.

3
4 SECTION 4262. Arkansas Code § 26-62-211(g)(2)(C), concerning entry
5 slips, tax on out-of-state motor vehicle use, and penalties, is amended to
6 read as follows:

7 (C) The receipt shall remain in the vehicle for the
8 remainder of the trip over the highways of this state and thereafter shall be
9 preserved and retained by the owner or operator for a period of not less than
10 three (3) years and shall be produced for the inspection of the ~~director~~
11 secretary or his or her authorized agent or representative, at any reasonable
12 time and place, either within or without this state, upon proper demand.

13
14 SECTION 4263. Arkansas Code § 26-62-212 is amended to read as follows:
15 26-62-212. Power to stop, investigate, and impound vehicles –
16 Assessment of tax.

17 (a) In order to enforce the provisions of this chapter, the ~~Director~~
18 Secretary of the Department of Finance and Administration or his or her
19 authorized representative is empowered to stop any motor vehicle which
20 appears to be operating with alternative fuels for the purpose of examining
21 the invoices or other documents required by this chapter, or by regulation,
22 and for such other investigative purposes reasonably necessary to determine
23 whether the taxes imposed by this chapter have been paid or whether the
24 vehicle is being operated in compliance with the provisions of this chapter.

25 (b) If after examination or investigation it is determined by the
26 ~~director~~ secretary or his or her authorized representative that the tax
27 imposed by this chapter has not been paid with respect to the alternative
28 fuels being used in the vehicle, the ~~director~~ secretary or his or her
29 representative shall immediately assess the tax due, together with the
30 penalty hereinafter provided, to the owner of the vehicle and give the owner
31 written notice of the assessment by handing it to the driver of the vehicle.

32 (c) The ~~director~~ secretary or his or her representative is empowered
33 to impound any vehicle found to be operating in violation of this chapter by
34 a person other than a person who has furnished the bond required of users by
35 § 26-62-204 until such time as any tax assessed as provided herein has been
36 paid.

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SECTION 4264. Arkansas Code § 26-62-213(c)(2), concerning the unlawful activities regarding the operation of motor vehicles, is amended to read as follows:

(2) This penalty shall be assessed by the ~~Director~~ Secretary of the Department of Finance and Administration or his or her representative and shall be collected in the same manner as is provided for the collection of tax in § 26-62-212.

SECTION 4265. Arkansas Code § 26-62-214 is amended to read as follows:

26-62-214. Conversion of vehicles for use of alternative fuels.

(a) Any alternative fuels supplier, garage, mechanic, owner, or operator of a motor vehicle who converts or causes a vehicle to be converted to enable the vehicle to be operated on any type of alternative fuels shall report the conversion to the ~~Director~~ Secretary of the Department of Finance and Administration on forms prescribed by the ~~director~~ secretary, which shall include, but not be limited to, the model, make, license number, and vehicle identification number of the converted vehicle within ten (10) days after the conversion.

(b) The converting or equipping of a vehicle for natural gas propulsion shall be in compliance with rules and regulations to be made and promulgated by the ~~director~~ secretary.

(c)(1) It shall be unlawful for any person to operate any motor vehicle which has been converted or equipped to use alternative fuels unless the vehicle has been reported to the ~~director~~ secretary and any permit, if required by this chapter of that person, has been obtained.

(2) If any owner or operator fails to report a conversion of a vehicle to the ~~director~~ secretary within the time prescribed above, such person shall be assessed a penalty of two hundred fifty dollars (\$250) which shall be in addition to any criminal penalty in this chapter.

SECTION 4266. Arkansas Code § 26-63-102(2), concerning Arkansas special excise taxes, is amended to read as follows:

(2) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the Department of Finance and Administration or any of his or her authorized agents;

1
2 SECTION 4267. Arkansas Code § 26-63-104(a) and (b), concerning
3 administration, rules, and regulations to be promulgated by the Director of
4 the Department of Finance and Administration, are amended to read as follows:

5 (a) The ~~Director~~ Secretary of the Department of Finance and
6 Administration shall administer this chapter.

7 (b) The ~~director~~ secretary shall prescribe forms and promulgate rules
8 for the proper enforcement of this chapter, including without limitation the
9 manner and time the taxes levied by this chapter shall be collected,
10 reported, and paid and how a sale will be sourced.

11
12 SECTION 4268. Arkansas Code § 26-63-105(b), concerning the cost of
13 administration and the distribution of surplus annually, is amended to read
14 as follows:

15 (b) If any funds appropriated for the administration of this chapter
16 remain in the possession of the ~~Director~~ Secretary of the Department of
17 Finance and Administration at the end of each fiscal year that have not been
18 actually used in the administration of this chapter, then the funds shall be
19 remitted by the ~~director~~ secretary to the Treasurer of State for distribution
20 in the same manner and for the same purposes provided for in § 26-63-106.

21
22 SECTION 4269. Arkansas Code § 26-63-106(a), concerning the disposition
23 of taxes, interest, and penalties, is amended to read as follows:

24 (a) Except as otherwise provided in this chapter, all taxes, interest,
25 penalties, and costs received by the ~~Director~~ Secretary of the Department of
26 Finance and Administration under this chapter are general revenues and shall
27 be deposited into the State Treasury to the credit of the State Apportionment
28 Fund.

29
30 SECTION 4270. Arkansas Code § 26-63-107 is amended to read as follows:
31 26-63-107. Changes in law – Notice.

32 The ~~Director~~ Secretary of the Department of Finance and Administration
33 shall give each special excise tax registrant under § 26-63-201 written
34 notice of any change in the state law pertaining to the taxes levied by this
35 chapter within thirty (30) days after the adjournment of the General
36 Assembly.

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SECTION 4271. Arkansas Code § 26-63-201 is amended to read as follows:
26-63-201. Registration required.

(a) It is unlawful for any taxpayer to transact business within this state prior to registering with the ~~Director~~ Secretary of the Department of Finance and Administration.

(b) The ~~director~~ secretary may promulgate rules to implement this section.

SECTION 4272. Arkansas Code § 26-63-204 is amended to read as follows:
26-63-204. Discontinuance of business – Unpaid taxes.

(a)(1) Upon discontinuance of a business by sale or otherwise, any taxpayer registered to operate under this chapter shall notify the ~~Director~~ Secretary of the Department of Finance and Administration in writing and remit any unpaid or accrued taxes due under this chapter.

(2) Failure to pay any unpaid or accrued taxes due under this chapter is sufficient cause for the ~~director~~ secretary to refuse to allow the taxpayer to engage in or transact any other business in this state.

(3) In the case of a sale of any business, the tax levied by this chapter is due at the time of the sale of the fixtures and equipment incident to the business, and any tax due under this chapter constitutes a lien against the stock and the fixtures and equipment in the possession of the purchaser of the fixtures and equipment or any other third party until the tax due under this chapter is paid.

(b) The ~~director~~ secretary shall not register a taxpayer to continue to conduct a business until all tax due under this chapter has been settled and paid.

SECTION 4273. Arkansas Code § 26-63-302(b)(3)(A), concerning rental vehicle tax, is amended to read as follows:

(3)(A) The rental vehicle tax shall be remitted to the ~~Director~~ Secretary of the Department of Finance and Administration and, except for the amount equal to any municipal or county taxes, shall be deposited into the State Treasury as general revenues.

SECTION 4274. Arkansas Code § 26-63-302(c)(2)(A)(i), concerning rental

1 vehicle tax, is amended to read as follows:

2 (2)(A)(i) The additional rental vehicle tax shall be remitted to
3 the ~~director~~ secretary, who shall deposit seventy-five percent (75%) of the
4 net revenues derived from the additional rental vehicle tax into the Arkansas
5 Public Transit Trust Fund.

6

7 SECTION 4275. Arkansas Code § 26-63-304(c), concerning long-term
8 rental vehicle tax, is amended to read as follows:

9 (c) The long-term rental vehicle tax shall be remitted to the ~~Director~~
10 Secretary of the Department of Finance and Administration and shall be
11 deposited into the State Treasury as general revenues.

12

13 SECTION 4276. Arkansas Code § 26-73-102(3), concerning the definition
14 of "director" under the laws governing local taxes, is amended to read as
15 follows:

16 (3) "~~Director~~ Secretary" means the ~~Director~~ Secretary of the
17 Department of Finance and Administration in the exercise of those powers,
18 functions, and duties formerly vested in the Commissioner of Revenues of the
19 State of Arkansas which were merged into the Department of Finance and
20 Administration under the provisions of § 25-8-101 et seq., or any of his or
21 her authorized agents;

22

23 SECTION 4277. Arkansas Code § 26-73-105 is amended to read as follows:
24 26-73-105. Collection of taxes.

25 (a) The ~~Director~~ Secretary of the Department of Finance and
26 Administration shall collect the tax levied under this subchapter and shall
27 perform all functions incident to the administration, collection,
28 enforcement, and operation of the taxes in the manner and following the
29 procedures that are prescribed for the corresponding state taxes.

30 (b) The ~~director~~ secretary shall deduct from all revenues collected
31 pursuant to this subchapter up to three percent (3%) as a cost of collection.

32

33 SECTION 4278. Arkansas Code § 26-73-106 is amended to read as follows:
34 26-73-106. Revenue Local Tax Revolving Fund – Revenue Local Tax
35 Operating Fund.

36 (a) There are created on the books of the Treasurer of State, the

1 Auditor of State, and the ~~Director~~ Secretary of the Department of Finance and
2 Administration a Revenue Local Tax Revolving Fund and a Revenue Local Tax
3 Operating Fund.

4 (b) All taxes collected by the ~~director~~ secretary under this
5 subchapter shall be deposited into the State Treasury and credited to the
6 Revenue Local Tax Revolving Fund and transmitted at least quarterly in each
7 state fiscal year to the local government levying the tax.

8

9 SECTION 4279. Arkansas Code § 26-73-107 is amended to read as follows:
10 26-73-107. Rules and regulations.

11 The ~~Director~~ Secretary of the Department of Finance and Administration
12 shall promulgate reasonable rules and regulations not inconsistent with the
13 provisions of this subchapter to implement the enforcement, administration,
14 and collection of the taxes authorized in this subchapter.

15

16 SECTION 4280. Arkansas Code § 26-73-109(a)(1)(A)(ii), concerning tax
17 information exchange agreements, is amended to read as follows:

18 (ii) ~~Director~~ Secretary of the Department of Finance
19 and Administration; or

20

21 SECTION 4281. Arkansas Code § 26-73-109(a)(2), concerning tax
22 information exchange agreements, is amended to read as follows:

23 (2) In all other matters concerning the release of tax
24 information, including its release to law enforcement agencies, the local
25 government shall be governed by state law in the same manner as is the
26 ~~director~~ secretary.

27

28 SECTION 4282. Arkansas Code § 26-74-203(5), concerning the definition
29 of "director" under the laws governing sales and use taxes for capital
30 improvements, is repealed.

31 ~~(5) "Director" means the Director of the Department of Finance~~
32 ~~and Administration, or any successor of the director, or any authorized agent~~
33 ~~of the director;~~

34

35 SECTION 4283. Arkansas Code § 26-74-204(c), concerning the issuance of
36 bonds, is amended to read as follows:

1 (c) There may be successive bond issues for the purpose of financing
2 the same project, and there may be successive bond issues for financing the
3 cost of reconstructing, replacing, constructing additions to, extending,
4 improving, and equipping projects already in existence, whether or not
5 originally financed by bonds issued under this subchapter, and with each
6 successive issue to be authorized as provided by this subchapter. Priority
7 between and among issues and successive issues as to security of the pledge
8 of revenues and lien on the project facilities involved may be controlled by
9 the ordinance authorizing the issuance of bonds under this subchapter.
10 Subject to the provisions of this subchapter pertaining to registration, the
11 bonds shall have all the qualities of negotiable instruments under the laws
12 of the State of Arkansas. A copy of the ordinance authorizing bonds under
13 this subchapter, certified by the county clerk of the county, shall be filed
14 with the ~~Director~~ Secretary of the Department of Finance and Administration
15 and with the Treasurer of State.

16
17 SECTION 4284. Arkansas Code § 26-74-208(b)(3)(D)(i), concerning the
18 form of a ballot for a sales and use tax, is amended to read as follows:

19 (D)(i) To extend the sales and use tax levied under this
20 subchapter to a new expiration date, the county shall notify the ~~Director~~
21 Secretary of the Department of Finance and Administration of the new
22 expiration date that was approved by the voters after publication of the
23 proclamation has occurred and at least ninety (90) days before the current
24 expiration date of the sales and use tax.

25
26 SECTION 4285. Arkansas Code § 26-74-209(d)(1), concerning the conduct
27 of elections, results, and challenges, is amended to read as follows:

28 (d)(1) The county court shall notify the ~~Director~~ Secretary of the
29 Department of Finance and Administration of the countywide tax after
30 publication of the proclamation has occurred and ninety (90) days before the
31 effective date of the tax.

32
33 SECTION 4286. Arkansas Code § 26-74-209(d)(2)(A)(i), concerning the
34 conduct of elections, results, and challenges, is amended to read as follows:

35 (2)(A)(i) Except as provided in subdivision (d)(2)(A)(ii) of
36 this section, if an election challenge is not timely filed, the countywide

1 tax shall be levied, effective on the first day of the first month of the
2 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
3 secretary to sellers and after the expiration of the thirty-day challenge
4 period, on the gross receipts from the sale at retail within the county of
5 all items and services that are subject to the Arkansas Gross Receipts Act of
6 1941, § 26-52-101 et seq.

7
8 SECTION 4287. Arkansas Code § 26-74-211 is amended to read as follows:
9 26-74-211. Notification of results.

10 (a) Within ten (10) days after the certification of the votes of any
11 election resulting in the adoption or abolition of a tax levied pursuant to
12 this subchapter and ninety (90) days before its effective date, the county
13 court shall notify the ~~Director~~ Secretary of the Department of Finance and
14 Administration of the results.

15 (b) A rate change will be effective only on the first day of a
16 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
17 secretary to sellers.

18 (c) A rate change on a purchase from a printed catalog in which the
19 purchaser computed the tax based upon local tax rates published in the
20 catalog will be applicable on the first day of a calendar quarter after a
21 minimum of one hundred twenty (120) days' notice by the ~~director~~ secretary to
22 the sellers.

23 (d) For sales and use tax purposes only, a local boundary change will
24 become effective on the first day of a calendar quarter after a minimum of
25 sixty (60) days' notice by the ~~director~~ secretary to sellers.

26
27 SECTION 4288. Arkansas Code § 26-74-213(b)(1), concerning county tax
28 rebates, is amended to read as follows:

29 (b)(1) If a rebate would be due pursuant to the provisions of this
30 subchapter as a result of the purchase of a new or used motor vehicle and if
31 the tax on the new or used motor vehicle is collected directly from the
32 purchaser pursuant to the provisions of § 26-52-510, then the ~~Director~~
33 Secretary of the Department of Finance and Administration shall collect only
34 the amount of tax due less the amount to which the purchaser would be
35 entitled under the rebate provisions of this subchapter.

36

1 SECTION 4289. Arkansas Code § 26-74-214(a)(1), concerning the
2 disposition of county sales and use taxes, is amended to read as follows:

3 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall maintain a record of the total amount of tax collected
5 pursuant to this subchapter and other subchapters authorizing county sales
6 and use taxes in each county and shall deposit all such revenues with the
7 Treasurer of State.

8
9 SECTION 4290. The introductory language of Arkansas Code § 26-74-
10 214(e)(1), concerning the disposition of county sales and use taxes, is
11 amended to read as follows:

12 (e)(1) When any tax adopted by a county pursuant to this subchapter is
13 abolished, the ~~director~~ secretary shall retain in the account of that county
14 in the Local Sales and Use Tax Trust Fund for a period of one (1) year an
15 amount equal to five percent (5%) of the final remittance to the county and
16 municipalities in the county at the time of termination of the collection of
17 the tax to:

18
19 SECTION 4291. Arkansas Code § 26-74-214(e)(2), concerning the
20 disposition of county sales and use taxes, is amended to read as follows:

21 (2) After one (1) year has elapsed after the effective date of
22 the abolition of the tax in any county, the ~~director~~ secretary shall transfer
23 the balance in that county's account to the county and municipalities in the
24 county and shall close the account.

25
26 SECTION 4292. Arkansas Code § 26-74-214(f), concerning the disposition
27 of county sales and use taxes, is amended to read as follows:

28 (f)(1) As indicated by a certified copy of an ordinance of the quorum
29 court of the county previously filed with the ~~director~~ secretary and the
30 Treasurer of State, any moneys collected that are pledged to secure lease
31 rentals or the payment of bonds authorized by this subchapter shall not be
32 deposited into the State Treasury but shall be deposited by the Treasurer of
33 State into a bank or banks designated by the county, as cash funds, and
34 transmitted to the county subject to the charges payable and retainage
35 authorized in this section.

36 (2) Charges deducted shall be transmitted to the Treasurer of

1 State, and amounts retained shall be retained by the ~~director~~ secretary as
2 cash funds.

3

4 SECTION 4293. Arkansas Code § 26-74-215 is amended to read as follows:
5 26-74-215. Rules and regulations.

6 The ~~Director~~ Secretary of the Department of Finance and Administration
7 may promulgate reasonable rules and regulations not inconsistent with the
8 provisions of this subchapter to implement the administration, collection,
9 enforcement, and operation of the taxes authorized in this subchapter.

10

11 SECTION 4294. Arkansas Code § 26-74-216 is amended to read as follows:
12 26-74-216. Procedures and penalties for enforcement.

13 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
14 Department of Finance and Administration in enforcing any local tax imposed
15 pursuant to this subchapter shall be the same as for the state gross receipts
16 tax and compensating tax, as set out in the Arkansas Tax Procedure Act, § 26-
17 18-101 et seq., except as specifically set out in this subchapter.

18 (b)(1) When property is seized by the ~~director~~ secretary under the
19 provisions of any law authorizing seizure of property of a taxpayer who is
20 delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act
21 of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, §
22 26-53-101 et seq., and when the taxpayer is also delinquent in payment of any
23 tax imposed by this subchapter, the ~~director~~ secretary shall sell sufficient
24 property to pay the delinquent taxes and penalty due to any city or county
25 under this subchapter in addition to that required to pay any amount due to
26 the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
27 or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

28 (2) The proceeds from such sale shall first be applied to all
29 sums due to the state, and the remainder, if any, shall be applied to all
30 sums due to the city or county.

31

32 SECTION 4295. Arkansas Code § 26-74-220(c), concerning the maximum tax
33 limitation for county general sales or use taxes. is amended to read as
34 follows:

35 (c) This section applies only to a tax collected by the ~~Director~~
36 Secretary of the Department of Finance and Administration.

1
2 SECTION 4296. Arkansas Code § 26-74-303(5), concerning the definition
3 of "director" under the laws governing sales taxes for capital improvements,
4 is repealed.

5 ~~(5) "Director" means the Director of the Department of Finance~~
6 ~~and Administration, any successor of the director, or any authorized agent of~~
7 ~~the director;~~

8
9 SECTION 4297. Arkansas Code § 26-74-304(c), concerning the issuance of
10 bonds by counties, is amended to read as follows:

11 (c) There may be successive bond issues for the purpose of financing
12 the same project, and there may be successive bond issues for financing the
13 cost of reconstructing, replacing, constructing additions to, extending,
14 improving, and equipping projects already in existence, whether or not
15 originally financed by bonds issued under this subchapter, and with each
16 successive issue to be authorized as provided by this subchapter. Priority
17 between and among issues and successive issues as to security of the pledge
18 of revenues and lien on the project facilities involved may be controlled by
19 the ordinance authorizing the issuance of bonds under this subchapter.
20 Subject to the provisions of this subchapter pertaining to registration, the
21 bonds shall have all the qualities of negotiable instruments under the laws
22 of the State of Arkansas. A copy of the ordinance authorizing bonds under
23 this subchapter, certified by the county clerk of the county, shall be filed
24 with the ~~Director~~ Secretary of the Department of Finance and Administration
25 and with the Treasurer of State.

26
27 SECTION 4298. Arkansas Code § 26-74-308(b)(3)(D)(i), concerning the
28 form of a ballot for a county sales and use tax, is amended to read as
29 follows:

30 (D)(i) To extend the sales and use tax levied under this
31 subchapter to a new expiration date, the county shall notify the ~~Director~~
32 Secretary of the Department of Finance and Administration of the new
33 expiration date that was approved by the voters after publication of the
34 proclamation has occurred and at least ninety (90) days before the current
35 expiration date of the sales and use tax.

36

1 SECTION 4299. Arkansas Code § 26-74-309(d), concerning challenges,
2 results, and conduct of elections, is amended to read as follows:

3 (d)(1) The county court shall notify the ~~Director~~ Secretary of the
4 Department of Finance and Administration of the countywide tax after
5 publication of the proclamation has occurred and ninety (90) days before the
6 effective date of the tax.

7 (2)(A) Except as provided in subdivision (d)(2)(B) of this
8 section, if an election challenge is not timely filed, the countywide tax
9 shall be levied, effective on the first day of the first month of the
10 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
11 secretary to sellers and after the expiration of the thirty-day challenge
12 period, on the gross receipts from the sale at retail within the county of
13 all items and services that are subject to the Arkansas Gross Receipts Act of
14 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, §
15 26-53-101 et seq.

16 (B) The effective date of the levy of the countywide tax
17 may be delayed under § 26-74-308(d).

18
19 SECTION 4300. Arkansas Code § 26-74-311 is amended to read as follows:
20 26-74-311. Notification of results.

21 (a) Within ten (10) days after the certification of the votes of any
22 election resulting in the adoption or abolition of a tax levied pursuant to
23 this subchapter and ninety (90) days before the effective date, the county
24 court shall notify the ~~Director~~ Secretary of the Department of Finance and
25 Administration of the results.

26 (b) A rate change will become effective only on the first day of a
27 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
28 secretary to sellers.

29 (c) A rate change on a purchase from a printed catalog in which the
30 purchaser computed the tax based upon local tax rates published in the
31 catalog will be applicable beginning on the first day of a calendar quarter
32 after a minimum of one hundred twenty (120) days' notice by the ~~director~~
33 secretary to the sellers.

34 (d) For sales and use tax purposes only, a local boundary change will
35 become effective only on the first day of a calendar quarter after a minimum
36 of sixty (60) days' notice by the ~~director~~ secretary to sellers.

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SECTION 4301. Arkansas Code § 26-74-312 is amended to read as follows:
26-74-312. Administration, collection, etc., of tax.

(a) On and after the effective date of any tax imposed under the provisions of this subchapter, the ~~Director~~ Secretary of the Department of Finance and Administration shall perform all functions incidental to the administration, collection, enforcement, and operation of the tax.

(b) In addition to the state gross receipts tax, the ~~director~~ secretary shall collect an additional tax under the authority of this subchapter on the gross receipts from the sale of all items and services that are subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(c)(1) The tax imposed under this subchapter and the tax imposed under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the ~~director~~ secretary not inconsistent with the provisions of this subchapter.

(2)(A) Each vendor who is liable for one (1) or more city sales or use taxes shall report a combined city sales tax and a combined city use tax on his or her sales and use tax report.

(B) The combined city sales tax is equal to the sum of all sales taxes levied by a city under this subchapter or any other provision of the Arkansas Code.

(C) The combined city use tax is equal to the sum of all use taxes levied by a city under this subchapter or any other provision of the Arkansas Code.

(3) This subsection only applies to a tax collected by the ~~director~~ secretary.

(d) On and after the effective date of any proposition to abolish a tax levied pursuant to this subchapter, the ~~director~~ secretary shall comply with the proposition as provided in this subchapter.

SECTION 4302. Arkansas Code § 26-74-313(a)-(c), concerning the disposition of funds, are amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration shall maintain a record of the total amount of tax collected

1 pursuant to this subchapter and other subchapters authorizing county sales
2 and use taxes in each county. The ~~director~~ secretary shall determine the
3 population of the unincorporated area of each of the counties and shall
4 furnish the information to the Treasurer of State.

5 (b) Except as set forth in subsections (c), (e), and (f) of this
6 section, any tax collected by the ~~director~~ secretary under this subchapter on
7 behalf of any county shall be deposited with the Treasurer of State in trust
8 and shall be kept in a separate suspense account.

9 (c) Any moneys collected by the ~~director~~ secretary, as indicated by a
10 certified copy of an ordinance of the quorum court of the county, previously
11 filed with the ~~director~~ secretary and the Treasurer of State, which are
12 pledged to secure the payment of lease rentals or bonds authorized by this
13 subchapter shall not be deposited into the State Treasury but shall be
14 deposited by the Treasurer of State into banks designated by the county, as
15 cash funds, and transmitted to the county subject to the charges payable to
16 the State of Arkansas set forth in subsection (d) of this section. Charges
17 deducted shall be transmitted to the Treasurer of State.

18
19 SECTION 4303. Arkansas Code § 26-74-313(d)(1), concerning the
20 disposition of funds, is amended to read as follows:

21 (d)(1) The Treasurer of State shall transmit to the treasurer or
22 financial officer of each city and county its per capita share, after
23 deducting the amount required for claims, overpayments, and bad checks, as
24 certified by the ~~director~~ secretary.

25
26 SECTION 4304. Arkansas Code § 26-74-313(d)(4)-(6), concerning the
27 disposition of funds, are amended to read as follows:

28 (4) The ~~director~~ secretary is authorized to retain in the
29 suspense account a balance not to exceed five percent (5%) of the amount
30 remitted to the local governments. The ~~director~~ secretary is authorized to
31 make refunds from the suspense account of any overpayments made and to redeem
32 dishonored checks and drafts deposited to the credit of the suspense account.

33 (5) When any tax adopted pursuant to this subchapter is
34 thereafter abolished, the ~~director~~ secretary shall retain in the suspense
35 account for a period of one (1) year five percent (5%) of the final
36 remittance to the local governments at the time of termination of collection

1 of the tax to:

2 (A) Cover possible refunds for overpayment of the tax; and

3 (B) Redeem dishonored checks and drafts deposited to the
4 credit of the suspense account.

5 (6) After one (1) year has elapsed after the effective date of
6 the abolishment of the tax, the ~~director~~ secretary shall remit the balance of
7 the account to the governing bodies of the cities and counties and close the
8 account.

9

10 SECTION 4305. Arkansas Code § 26-74-314 is amended to read as follows:
11 26-74-314. Rules and regulations.

12 The ~~Director~~ Secretary of the Department of Finance and Administration
13 may promulgate reasonable rules and regulations not inconsistent with the
14 provisions of this subchapter to implement the enforcement, administration,
15 and collection of the taxes authorized in this subchapter.

16

17 SECTION 4306. Arkansas Code § 26-74-320(c), concerning maximum tax
18 limitation for county general sales or use taxes, is amended to read as
19 follows:

20 (c) This section applies only to taxes collected by the ~~Director~~
21 Secretary of the Department of Finance and Administration.

22

23 SECTION 4307. Arkansas Code § 26-74-321(a), concerning the procedures
24 and penalties for enforcement of a local tax, is amended to read as follows:

25 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
26 Department of Finance and Administration in enforcing any local tax imposed
27 pursuant to this subchapter shall be the same as for the Arkansas Gross
28 Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax
29 Act of 1949, § 26-53-101 et seq., as set out in the Arkansas Tax Procedure
30 Act, § 26-18-101 et seq., except as specifically set out in this subchapter.

31

32 SECTION 4308. Arkansas Code § 26-74-321(b)(1), concerning the
33 procedures and penalties for enforcement of a local tax, is amended to read
34 as follows:

35 (b)(1) When property is seized by the ~~director~~ secretary under the
36 provisions of any law authorizing seizure of property of a taxpayer who is

1 delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act
2 of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, §
3 26-53-101 et seq., and when the taxpayer is also delinquent in payment of any
4 tax imposed by this subchapter, the ~~director~~ secretary shall sell sufficient
5 property to pay the delinquent taxes and penalty due to any city or county
6 under this subchapter in addition to that required to pay any amount due to
7 the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
8 or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

9
10 SECTION 4309. Arkansas Code § 26-74-401(2), concerning the definition
11 of "director" under the laws governing sales and use tax for counties without
12 existing tax, is repealed.

13 ~~(2) "Director" means the Director of the Department of Finance~~
14 ~~and Administration, or any successor thereof, or any authorized agent~~
15 ~~thereof.~~

16
17 SECTION 4310. Arkansas Code § 26-74-404(d)(1), concerning election
18 challenges and results, is amended to read as follows:

19 (d)(1) The county court shall notify the ~~Director~~ Secretary of the
20 Department of Finance and Administration of the tax after publication of the
21 proclamation has occurred and ninety (90) days before the effective date of
22 the tax.

23
24 SECTION 4311. Arkansas Code § 26-74-404(d)(2)(A), concerning election
25 challenges and results, is amended to read as follows:

26 (2)(A) If no election challenge is timely filed, there shall be
27 levied, effective on the first day of the first month of the calendar quarter
28 after a minimum of sixty (60) days' notice by the ~~director~~ secretary to
29 sellers and after the expiration of the thirty-day challenge period, a one-
30 half percent (0.5%) tax on the gross receipts from the sale of all items that
31 are subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
32 and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

33
34 SECTION 4312. Arkansas Code § 26-74-406 is amended to read as follows:
35 26-74-406. Notification of results.

36 (a) Within ten (10) days after the certification of the votes of any

1 election resulting in the adoption of a tax levied pursuant to this
2 subchapter and ninety (90) days before the effective date of the rate change,
3 the county court shall notify the ~~Director~~ Secretary of the Department of
4 Finance and Administration of the results.

5 (b) A rate change will become effective only on the first day of a
6 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
7 secretary to sellers.

8 (c) A rate change on a purchase from a printed catalog in which the
9 purchaser computed the tax based upon local tax rates published in the
10 catalog will be applicable beginning on the first day of a calendar quarter
11 after a minimum of one hundred twenty (120) days' notice by the ~~director~~
12 secretary to the sellers.

13 (d) For sales and use tax purposes only, a local boundary change will
14 become effective only on the first day of a calendar quarter after a minimum
15 of sixty (60) days' notice by the ~~director~~ secretary to sellers.

16
17 SECTION 4313. Arkansas Code § 26-74-408(b)(1), concerning county tax
18 rebates, is amended to read as follows:

19 (b)(1) When a rebate would be due pursuant to the provisions of this
20 subchapter as a result of the purchase of a new or used motor vehicle and
21 when the tax on the new or used motor vehicle is collected directly from the
22 purchaser pursuant to the provisions of § 26-52-510, then the ~~Director~~
23 Secretary of the Department of Finance and Administration shall collect only
24 the amount of tax due less the amount to which the purchaser would be
25 entitled under the rebate provisions of this subchapter.

26
27 SECTION 4314. Arkansas Code § 26-74-409(a)(1), concerning the
28 disposition of funds, is amended to read as follows:

29 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
30 Administration shall maintain a record of the total amount of tax collected
31 pursuant to this subchapter and all other subchapters authorizing a county
32 sales and use tax in each county and shall deposit all such revenues with the
33 Treasurer of State.

34
35 SECTION 4315. The introductory language of Arkansas Code § 26-74-
36 409(e), concerning the disposition of funds, is amended to read as follows:

1 (e) When any tax adopted by a county pursuant to this subchapter
2 ceases, the ~~director~~ secretary shall retain in the account of that county in
3 the Local Sales and Use Tax Trust Fund for a period of one (1) year an amount
4 equal to five percent (5%) of the final remittance to the county and
5 municipalities therein at the time of termination of the collection of the
6 tax to:

7
8 SECTION 4316. Arkansas Code § 26-74-409(f), concerning the disposition
9 of funds, is amended to read as follows:

10 (f) After one (1) year has elapsed after the tax ceases in any county,
11 the ~~director~~ secretary shall transfer the balance in that county's account to
12 the county and shall close the account.

13
14 SECTION 4317. Arkansas Code § 26-74-410 is amended to read as follows:
15 26-74-410. Rules and regulations.

16 The ~~Director~~ Secretary of the Department of Finance and Administration
17 may promulgate reasonable rules and regulations not inconsistent with the
18 provisions of this subchapter to implement the administration, collection,
19 enforcement, and operation of the taxes authorized in this subchapter.

20
21 SECTION 4318. Arkansas Code § 26-74-411(a), concerning the procedures
22 and penalties for enforcement of local taxes, is amended to read as follows:

23 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
24 Department of Finance and Administration in enforcing any local tax imposed
25 pursuant to this subchapter shall be the same as for the state gross receipts
26 tax and compensating tax, as set out in the Arkansas Tax Procedure Act, § 26-
27 18-101 et seq., except as specifically set out in this subchapter.

28
29 SECTION 4319. Arkansas Code § 26-74-411(b)(1), concerning the
30 procedures and penalties for enforcement of local taxes, is amended to read
31 as follows:

32 (b)(1) When property is seized by the ~~director~~ secretary under the
33 provisions of any law authorizing seizure of property of a taxpayer who is
34 delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act
35 of 1941, § 26-52-101 et seq., or Arkansas Compensating Tax Act of 1949, § 26-
36 53-101 et seq., and when the taxpayer is also delinquent in payment of any

1 tax imposed by this subchapter, the ~~director~~ secretary shall sell sufficient
2 property to pay the delinquent taxes and penalty due to any county under this
3 subchapter in addition to that required to pay any amount due to the state
4 under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the
5 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

6
7 SECTION 4320. Arkansas Code § 26-74-412(a)(2), concerning the maximum
8 tax limitation, is amended to read as follows:

9 (2) A vendor collecting, reporting, and remitting the county
10 sales or use taxes shall show county sales taxes as a separate entry on the
11 tax report form filed with the ~~Director~~ Secretary of the Department of
12 Finance and Administration.

13
14 SECTION 4321. Arkansas Code § 26-74-601(2), concerning the definition
15 of "director" under the laws governing sales and use taxes for the capital
16 improvements of a community college, is repealed.

17 ~~(2) "Director" means the Director of the Department of Finance~~
18 ~~and Administration, any successor of the director, or any authorized agent of~~
19 ~~the director;~~

20
21 SECTION 4322. Arkansas Code § 26-74-605(e)(1)(A), concerning the
22 conduct of election and results, and challenges, is amended to read as
23 follows:

24 (e)(1)(A) If a challenge to an election called under § 26-74-603(b) is
25 not timely filed, there shall be levied effective on the first day of the
26 first month of the calendar quarter after a minimum of sixty (60) days'
27 notice by the ~~Director~~ Secretary of the Department of Finance and
28 Administration to sellers and subsequent to the expiration of the thirty-day
29 challenge period a countywide tax on the gross receipts from the sale at
30 retail within the eligible county of all items that are subject to the
31 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

32
33 SECTION 4323. Arkansas Code § 26-74-605(h)(1), concerning the conduct
34 of election and results, and challenges, is amended to read as follows:

35 (h)(1) To extend the period for the levy of a tax under § 26-74-
36 603(c), after the publication of the proclamation has occurred and at least

1 ninety (90) days before the current period for the levy of the tax is set to
2 expire, the county shall notify the ~~director~~ secretary of the new period for
3 the levy of the tax that was approved by the voters.

4
5 SECTION 4324. Arkansas Code § 26-74-607 is amended to read as follows:
6 26-74-607. Notification of results.

7 Within ten (10) days after the certification of the votes of any
8 election resulting in the adoption or abolition of a tax levied pursuant to
9 this subchapter and ninety (90) days before the effective date of the tax,
10 the county judge shall notify the ~~Director~~ Secretary of the Department of
11 Finance and Administration of the results.

12
13 SECTION 4325. Arkansas Code § 26-74-609(a)(1), concerning the
14 disposition of funds, is amended to read as follows:

15 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
16 Administration shall maintain a record of the total amount of tax collected
17 pursuant to this subchapter and all other subchapters authorizing a county
18 sales and use tax in each eligible county and shall deposit all such revenues
19 with the Treasurer of State.

20
21 SECTION 4326. The introductory language of Arkansas Code § 26-74-
22 609(e), concerning the disposition of funds, is amended to read as follows:

23 (e) When any tax adopted by an eligible county pursuant to this
24 subchapter ceases, the ~~director~~ secretary shall retain in the account of that
25 eligible county in the Local Sales and Use Tax Trust Fund for a period of one
26 (1) year an amount equal to five percent (5%) of the final remittance to the
27 eligible county at the time of termination of the collection of the tax to:

28
29 SECTION 4327. The introductory language of Arkansas Code § 26-74-
30 609(f), concerning the disposition of funds, is amended to read as follows:

31 (f) After one (1) year has elapsed after the tax ceases in any
32 eligible county, the ~~director~~ secretary shall transfer the balance in that
33 eligible county's account to the eligible county and shall close the account.

34
35 SECTION 4328. Arkansas Code § 26-74-610 is amended to read as follows:
36 26-74-610. Rules and regulations.

1 The ~~Director~~ Secretary of the Department of Finance and Administration
2 may promulgate reasonable rules and regulations not inconsistent with the
3 provisions of this subchapter to implement the administration, collection,
4 enforcement, and operation of the taxes authorized in this subchapter.

5
6 SECTION 4329. Arkansas Code § 26-74-611 is amended to read as follows:
7 26-74-611. Procedures and penalties for enforcement.

8 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
9 Department of Finance and Administration in enforcing any tax imposed
10 pursuant to this subchapter shall be the same as for the state gross receipts
11 tax and the state compensating tax, as set out in the Arkansas Tax Procedure
12 Act, § 26-18-101 et seq., except as specifically set out in this subchapter.

13 (b)(1) When property is seized by the ~~director~~ secretary under the
14 provisions of any law authorizing seizure of property of a taxpayer who is
15 delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act
16 of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, §
17 26-53-101 et seq., and when the taxpayer is also delinquent in payment of any
18 tax imposed by this subchapter, the ~~director~~ secretary shall sell sufficient
19 property to pay the delinquent taxes and penalty due to any eligible county
20 under this subchapter in addition to that required to pay any amount due to
21 the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
22 or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

23 (2) The proceeds from the sale shall first be applied to all
24 sums due to the state, and the remainder, if any, shall be applied to all
25 sums due to the eligible county.

26
27 SECTION 4330. Arkansas Code § 26-74-612(b), concerning maximum tax
28 limitations, is amended to read as follows:

29 (b) A vendor collecting, reporting, and remitting the tax shall show
30 the tax as a separate entry on the tax report form filed with the ~~Director~~
31 Secretary of the Department of Finance and Administration.

32
33 SECTION 4331. Arkansas Code § 26-75-203(6), concerning the definition
34 of "director" under the sales and use tax for capital improvements, is
35 repealed.

36 ~~(6) "Director" means the Director of the Department of Finance~~

1 ~~and Administration, any successor of the director, or any authorized agent of~~
2 ~~the director;~~

3
4 SECTION 4332. Arkansas Code § 26-75-204(c), concerning the issuance of
5 bonds, is amended to read as follows:

6 (c) There may be successive bond issues for the purpose of financing
7 the same project, and there may be successive bond issues for financing the
8 cost of reconstructing, replacing, constructing additions to, extending,
9 improving, and equipping projects already in existence, whether or not
10 originally financed by bonds issued under this subchapter, and with each
11 successive issue to be authorized as provided by this subchapter. Priority
12 between and among issues and successive issues as to security of the pledge
13 of revenues and lien on the project facilities involved may be controlled by
14 the ordinance authorizing the issuance of bonds under this subchapter.
15 Subject to the provisions of this subchapter pertaining to registration, the
16 bonds shall have all the qualities of negotiable instruments under the laws
17 of the State of Arkansas. A copy of the ordinance authorizing bonds under
18 this subchapter, certified by the clerk or recorder of the city, shall be
19 filed with the ~~Director~~ Secretary of the Department of Finance and
20 Administration and with the Treasurer of State.

21
22 SECTION 4333. Arkansas Code § 26-75-208(b)(3)(D)(i), concerning the
23 requirement for a special election, is amended to read as follows:

24 (D)(i) To extend the sales and use tax levied under this
25 subchapter to a new expiration date, the city shall notify the ~~Director~~
26 Secretary of the Department of Finance and Administration of the new
27 expiration date that was approved by the voters after publication of the
28 proclamation has occurred and at least ninety (90) days before the current
29 expiration date of the sales and use tax.

30
31 SECTION 4334. The introductory language of Arkansas Code § 26-75-209,
32 concerning the effective date of an ordinance, is amended to read as follows:

33 In order to provide time for the preparations for election set forth in
34 this subchapter and to provide for the accomplishment of the administrative
35 duties of the ~~Director~~ Secretary of the Department of Finance and
36 Administration, the following effective dates are applicable with reference

1 to any such ordinance levying such tax:

2

3 SECTION 4335. Arkansas Code § 26-75-209(1)(D)(i) and (ii), concerning
4 the effective date of an ordinance, are amended to read as follows:

5 (D)(i) The mayor of the city shall notify the ~~director~~
6 secretary of the rate change after publication of the proclamation has
7 occurred and ninety (90) days before the effective date of the tax.

8 (ii) If an election challenge is not filed within
9 the thirty-day challenge period, the ordinance or petition described in § 26-
10 75-207 shall become effective on the first day of the first month of the
11 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
12 secretary to sellers and after the expiration of the full thirty-day period
13 of challenge.

14

15 SECTION 4336. Arkansas Code § 26-75-209(1)(E), concerning the
16 effective date of an ordinance, is amended to read as follows:

17 (E) The rate change shall become applicable on the first
18 day of a quarter after one hundred twenty (120) days' notice by the ~~director~~
19 secretary to sellers on a purchase from a printed catalog in which the
20 purchaser computed the tax based upon local tax rates published in the
21 catalog; and

22

23 SECTION 4337. Arkansas Code § 26-75-210(d)(1), concerning the
24 abolishment of tax, is amended to read as follows:

25 (d)(1) The effective date of any affirmative vote by the governing
26 body of the city to abolish the tax under subsection (a) of this section
27 shall be on the first day of the calendar quarter after the expiration of
28 ninety (90) days from the date a written statement signed by the chief
29 executive officer of the city abolishing the tax is filed with the ~~Director~~
30 Secretary of the Department of Finance and Administration certifying that the
31 governing body of the city has adopted an ordinance abolishing the tax.

32

33 SECTION 4338. Arkansas Code § 26-75-211 is amended to read as follows:
34 26-75-211. Notification required.

35 (a) As soon as is feasible, and no later than ten (10) days following
36 each of the events set forth in the ordinance with reference to the procedure

1 for the adoption or abolition of a tax and the effective dates of such an
2 action, the city clerk of the city shall notify the ~~Director~~ Secretary of the
3 Department of Finance and Administration of such event.

4 (b)(1) If any city in which a local sales and use tax has been imposed
5 in the manner provided for in this subchapter shall thereafter change or
6 alter its boundaries, the city clerk of the city shall forward to the
7 ~~director~~ secretary at least ninety (90) days before the effective date a
8 certified copy of the ordinance adding or detaching territory from the city,
9 which shall be accompanied by a map clearly showing the territory added or
10 detached.

11 (2) After receipt of the ordinance and map, the tax imposed
12 under this subchapter shall be effective in the added territory or abolished
13 in the detached territory on the first day of the first month of the calendar
14 quarter following the expiration of sixty (60) days' notice by the ~~director~~
15 secretary to sellers.

16
17 SECTION 4339. Arkansas Code § 26-75-212(b), concerning the collection
18 of local sales and use taxes, is amended to read as follows:

19 (b) The tax levied in this subchapter on new and used motor vehicles
20 shall be collected by the ~~Director~~ Secretary of the Department of Finance and
21 Administration directly from the purchaser in the manner prescribed in § 26-
22 52-510.

23
24 SECTION 4340. Arkansas Code § 26-75-212(c)(4), concerning the
25 collection of local sales and use taxes, is amended to read as follows:

26 (4) This subsection only applies to a tax collected by the
27 ~~director~~ secretary.

28
29 SECTION 4341. Arkansas Code § 26-75-214(a) and (b), concerning the
30 administration and collection of taxes, are amended to read as follows:

31 (a) On and after the effective date of any tax imposed under the
32 provisions of this subchapter, the ~~Director~~ Secretary of the Department of
33 Finance and Administration shall perform all functions incidental to the
34 administration, collection, enforcement, and operation of the tax.

35 (b) In addition to the state gross receipts tax and compensating tax,
36 the ~~director~~ secretary shall collect an additional tax under the authority of

1 this subchapter on the receipts from the sale at retail or on the sale price
2 or lease or rental price on the storage, use, distribution, or other
3 consumption of all taxable items and services subject to the Arkansas Gross
4 Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax
5 Act of 1949, § 26-53-101 et seq.

6
7 SECTION 4342. Arkansas Code § 26-75-214(c)(1), concerning the
8 administration and collection of taxes, is amended to read as follows:

9 (c)(1) The tax imposed under this subchapter and the tax imposed under
10 the gross receipts tax and compensating tax shall be collected together and
11 reported upon such forms and under such administrative rules and regulations
12 as may be prescribed by the ~~director~~ secretary not inconsistent with the
13 provisions of this subchapter.

14
15 SECTION 4343. Arkansas Code § 26-75-214(c)(5), concerning the
16 administration and collection of taxes, is amended to read as follows:

17 (5) This subsection only applies to a tax collected by the
18 ~~director~~ secretary.

19
20 SECTION 4344. Arkansas Code § 26-75-214(d), concerning the
21 administration and collection of taxes, is amended to read as follows:

22 (d) On and after the effective date of any proposition to abolish such
23 local sales and use tax in any city, the ~~director~~ secretary shall comply with
24 the proposition as provided in this subchapter.

25
26 SECTION 4345. Arkansas Code § 26-75-217(b)(2), concerning the
27 disposition of funds, is amended to read as follows:

28 (2) The Treasurer of State is authorized to make refunds from
29 the suspense account of any city for overpayments made to such accounts,
30 after such refunds have been approved by the ~~Director~~ Secretary of the
31 Department of Finance and Administration, and to redeem dishonored checks and
32 drafts deposited to the credit of the suspense account of such cities.

33
34 SECTION 4346. Arkansas Code § 26-75-217(d), concerning the disposition
35 of funds, is amended to read as follows:

36 (d) Any moneys collected which as indicated by a certified copy of an

1 ordinance of the city previously filed with the ~~director~~ secretary and the
2 Treasurer of State are pledged to secure lease rentals or the payment of
3 bonds authorized by this subchapter shall not be deposited into the State
4 Treasury but shall be deposited by the Treasurer of State into banks
5 designated by the city as cash funds and transmitted to the city subject to
6 the charges payable and retainage authorized in this section. Charges
7 deducted shall be transmitted to the Treasurer of State, and amounts retained
8 shall be retained by the Treasurer of State as cash funds.

9
10 SECTION 4347. Arkansas Code § 26-75-218 is amended to read as follows:
11 26-75-218. Rules and regulations.

12 The ~~Director~~ Secretary of the Department of Finance and Administration
13 may promulgate reasonable rules and regulations not inconsistent with the
14 provisions of this subchapter to implement the enforcement, administration,
15 and collection of the taxes authorized in this subchapter.

16
17 SECTION 4348. Arkansas Code § 26-75-219(a), concerning the procedures
18 and penalties for enforcement of a local tax, is amended to read as follows:

19 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
20 Department of Finance and Administration in enforcing any local tax imposed
21 pursuant to this subchapter shall be the same as for the state gross receipts
22 tax and compensating tax, except as specifically set out in this subchapter.

23
24 SECTION 4349. Arkansas Code § 26-75-219(b)(1), concerning the
25 procedures and penalties for enforcement of a local tax, is amended to read
26 as follows:

27 (b)(1) When property is seized by the ~~director~~ secretary under the
28 provisions of any law authorizing seizure of property of a taxpayer who is
29 delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act
30 of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, §
31 26-53-101 et seq., and when such taxpayer is also delinquent in payment of
32 any tax imposed by this subchapter, the ~~director~~ secretary shall sell
33 sufficient property to pay the delinquent taxes and penalty due to any city
34 under this subchapter in addition to that required to pay any amount due to
35 the state under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
36 or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

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SECTION 4350. Arkansas Code § 26-75-222(c), concerning the maximum tax limitation, is amended to read as follows:

(c) This section only applies to a tax collected by the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 4351. Arkansas Code § 26-75-303(6), concerning the definition of "director" under the laws regarding sales taxes for capital improvements, is repealed.

~~(6) "Director" means the Director of the Department of Finance and Administration, or any successor of the director, or any authorized agent of the director;~~

SECTION 4352. Arkansas Code § 26-75-304(c), concerning the issuance of bonds for capital improvements of a public nature, is amended to read as follows:

(c) There may be successive bond issues for the purpose of financing the same project, and there may be successive bond issues for financing the cost of reconstructing, replacing, constructing additions to, extending, improving, and equipping projects already in existence, whether or not originally financed by bonds issued under this subchapter, and with each successive issue to be authorized as provided by this subchapter. Priority between and among issues and successive issues as to security of the pledge of revenues and lien on the project facilities involved may be controlled by the ordinance authorizing the issuance of bonds under this subchapter. Subject to the provisions of this subchapter pertaining to registration, the bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas. A copy of the ordinance authorizing bonds under this subchapter, certified by the clerk or recorder of the city, shall be filed with the ~~Director~~ Secretary of the Department of Finance and Administration and with the Treasurer of State.

SECTION 4353. Arkansas Code § 26-75-308(c)(3)(D)(i), concerning a special election to approve the levying of a local sales and use tax, is amended to read as follows:

(D)(i) To extend the sales and use tax levied under this

1 subchapter to a new expiration date, the city shall notify the ~~Director~~
2 Secretary of the Department of Finance and Administration of the new
3 expiration date that was approved by the voters after publication of the
4 proclamation has occurred and at least ninety (90) days before the current
5 expiration date of the sales and use tax.

6
7 SECTION 4354. The introductory language of Arkansas Code § 26-75-309,
8 concerning the effective date of an ordinance, is amended to read as follows:

9 In order to provide time for the preparations for election set forth in
10 this subchapter and to provide for the accomplishment of the administrative
11 duties of the ~~Director~~ Secretary of the Department of Finance and
12 Administration, the following effective dates are applicable with reference
13 to any such ordinance levying such tax:

14
15 SECTION 4355. Arkansas Code § 26-75-309(1)(D)(i) and (ii), concerning
16 the effective date of an ordinance, are amended to read as follows:

17 (D)(i) The mayor of the city shall notify the ~~director~~
18 secretary after publication of the proclamation has occurred and ninety (90)
19 days before the effective date of the tax.

20 (ii) If an election challenge is not filed within
21 the thirty-day challenge period, the ordinance or petition described in § 26-
22 75-307 shall become effective on the first day of the first month of the
23 calendar quarter after a minimum of sixty (60) days' notice by the ~~director~~
24 secretary to sellers and after the expiration of the full thirty-day period
25 of challenge.

26
27 SECTION 4356. Arkansas Code § 26-75-309(1)(E), concerning the
28 effective date of an ordinance, is amended to read as follows:

29 (E) The rate change shall become applicable on the first
30 day of a quarter after one hundred twenty (120) days' notice by the ~~director~~
31 secretary to sellers on a purchase from a printed catalog in which the
32 purchaser computed the tax based upon local tax rates published in the
33 catalog; and

34
35 SECTION 4357. Arkansas Code § 26-75-310(g)(1), concerning the
36 abolishment of a local sales and use tax, is amended to read as follows:

1 (g)(1) The effective date of any affirmative vote by the governing
2 body of the city to abolish the tax under subsection (b) of this section
3 shall be on the first day of the calendar quarter after the expiration of
4 ninety (90) days from the date a written statement signed by the chief
5 executive officer of the city abolishing the tax is filed with the ~~Director~~
6 Secretary of the Department of Finance and Administration certifying that the
7 governing body of the city has adopted an ordinance abolishing the tax.

8
9 SECTION 4358. Arkansas Code § 26-75-311 is amended to read as follows:
10 26-75-311. Notification required.

11 (a)(1) As soon as is practicable, and no later than ten (10) days
12 following each of the events set forth in the ordinance with reference to the
13 procedure for the adoption or abolition of such tax and the effective dates
14 of such action, the city clerk of the city shall notify the ~~Director~~
15 Secretary of the Department of Finance and Administration of such event.

16 (2) Accompanying the first of any such notices, the city clerk
17 shall send to the ~~director~~ secretary a map of the city clearly showing the
18 boundaries of the city.

19 (b)(1) If any such city in which a local sales and use tax has been
20 imposed in the manner provided for in this subchapter shall thereafter change
21 or alter its boundaries, the city clerk of the city shall forward to the
22 ~~director~~ secretary at least ninety (90) days before the effective date a
23 certified copy of the ordinance adding or detaching territory from the city,
24 which shall be accompanied by a map clearly showing the territory added or
25 detached.

26 (2) After receipt of the ordinance and the map, the tax imposed
27 under this subchapter shall be effective in the added territory or abolished
28 in the detached territory on the first day of the first month of the calendar
29 quarter following the expiration of thirty (30) days from the date that the
30 annexation or detachment becomes effective or after a minimum of sixty (60)
31 days' notice by the ~~director~~ secretary to sellers, whichever expires last.

32
33 SECTION 4359. Arkansas Code § 26-75-312(d)(3), concerning the
34 collection of a local sales and use tax, is amended to read as follows:

35 (3) This subsection applies only to taxes collected by the
36 ~~Director~~ Secretary of the Department of Finance and Administration.

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SECTION 4360. Arkansas Code § 26-75-313 is amended to read as follows:
26-75-313. Disposition of funds.

(a) The ~~Director~~ Secretary of the Department of Finance and Administration shall maintain a record of the total amount of tax collected pursuant to this subchapter and other subchapters authorizing city sales taxes in each city and shall deposit all such revenues with the Treasurer of State.

(b) Any moneys collected by the ~~director~~ secretary which as indicated by a certified copy of an ordinance of the city previously filed with the ~~director~~ secretary and the Treasurer of State, are pledged to secure the payment of lease rentals or bonds authorized by this subchapter shall not be deposited into the State Treasury but shall be deposited by the Treasurer of State into banks designated by the city as cash funds and transmitted to the city subject to the charges payable to the State of Arkansas set forth in § 26-75-217.

SECTION 4361. Arkansas Code § 26-75-314 is amended to read as follows:
26-75-314. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration may promulgate reasonable rules and regulations not inconsistent with the provisions of this subchapter to implement the enforcement, administration, and collection of the taxes authorized in this subchapter.

SECTION 4362. Arkansas Code § 26-75-316(c) and (d), concerning an excise tax on storage, use, or other consumption, are amended to read as follows:

(c) The tax imposed under this subchapter and the tax imposed under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and Arkansas Compensating Tax Act of 1949 § 26-53-101 et seq., shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the ~~Director~~ Secretary of the Department of Finance and Administration not inconsistent with the provisions of this subchapter.

(d) On and after the effective date of any proposition to abolish such local sales and use tax in any city, the ~~director~~ secretary shall comply with

1 the proposition as provided in this subchapter.

2
3 SECTION 4363. Arkansas Code § 26-75-319(c), concerning maximum tax
4 limitations, is amended to read as follows:

5 (c) This section only applies to a tax collected by the ~~Director~~
6 Secretary of the Department of Finance and Administration.

7
8 SECTION 4364. Arkansas Code § 26-75-320 is amended to read as follows:
9 26-75-320. Procedures and penalties for enforcement.

10 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
11 Department of Finance and Administration in enforcing any local tax imposed
12 pursuant to this subchapter shall be the same as for the gross receipts tax
13 and compensating tax, as set out in the Arkansas Tax Procedure Act, § 26-18-
14 101 et seq., except as specifically set out in this subchapter.

15 (b)(1) When property is seized by the ~~director~~ secretary under the
16 provisions of any law authorizing seizure of property of a taxpayer who is
17 delinquent in payment of the taxes imposed by the Arkansas Gross Receipts Act
18 of 1941, § 26-52-101 et seq., or Arkansas Compensating Tax Act of 1949, § 26-
19 53-101 et seq., and when the taxpayer is also delinquent in payment of any
20 tax imposed by this subchapter, the ~~director~~ secretary shall sell sufficient
21 property to pay the delinquent taxes and penalty due to any city under this
22 subchapter in addition to that required to pay any amount due to the state
23 under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the
24 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

25 (2) The proceeds from the sale shall first be applied to all
26 sums due to the state, and the remainder, if any, shall be applied to all
27 sums due to the city.

28
29 SECTION 4365. Arkansas Code § 26-75-404(d)(3)(B)(i), concerning
30 election requirements and procedures, is amended to read as follows:

31 (B)(i)(a) The mayor of the city or town shall notify the
32 ~~Director~~ Secretary of the Department of Finance and Administration of the
33 rate change after publication of the proclamation has occurred and ninety
34 (90) days before the effective date of the tax.

35 (b) If no election challenge is filed within
36 the thirty-day challenge period, the ordinance shall become effective on the

1 first day of the first month of the calendar quarter after a minimum of sixty
2 (60) days' notice by the ~~director~~ secretary to sellers and after the
3 expiration of the thirty-day period for challenge of the results of the
4 election.

5 (c) In the case of a purchase made from a
6 printed catalog in which the purchaser computed the tax based upon local tax
7 rates published in the catalog, the applicable date will be the first day of
8 the quarter after a minimum of one hundred twenty (120) days' notice by the
9 ~~director~~ secretary to sellers.

10
11 SECTION 4366. Arkansas Code § 26-75-404(e), concerning election
12 requirements and procedures, is amended to read as follows:

13 (e)(1) If a majority of electors voting on the issue vote "FOR" the
14 levy of the tax, a copy of the mayor's proclamation of the results of the
15 election shall be transmitted to the ~~director~~ secretary within ten (10) days
16 after the election.

17 (2)(A) At the time of transmitting the proclamation, the clerk
18 shall also send to the ~~director~~ secretary a map of the city or town clearly
19 showing the boundaries of the city or town.

20 (B)(i) If any such city or town shall thereafter change or
21 alter its boundaries, the city or town clerk shall forward to the ~~director~~
22 secretary ninety (90) days before the effective date of the boundary changes
23 a certified copy of the ordinance adding or detaching territory from the city
24 or town, and the ordinance shall be accompanied by a map clearly showing the
25 territory added or detached.

26 (ii) After receipt of the ordinance and map, the tax
27 imposed under this subchapter shall be effective in the added territory or
28 abolished in the detached territory on the first day of the first month of
29 the calendar quarter following the expiration of thirty (30) days from the
30 date that the annexation or detachment becomes effective or after a minimum
31 of sixty (60) days' notice by the ~~director~~ secretary to sellers, whichever
32 expires last.

33
34 SECTION 4367. Arkansas Code § 26-75-406(b)(2), concerning the manner
35 of collection of a local sales and use tax, is amended to read as follows:

36 (2) The tax levied in this section on motor vehicles shall be

1 collected by the ~~Director~~ Secretary of the Department of Finance and
2 Administration directly from the purchaser in the same manner as the state
3 gross receipts tax.

4
5 SECTION 4368. Arkansas Code § 26-75-406(c)(4), concerning the manner
6 of collection of a local sales and use tax, is amended to read as follows:

7 (4) This provision applies only to taxes collected by the
8 ~~director~~ secretary.

9
10 SECTION 4369. Arkansas Code § 26-75-407(a), concerning the disposition
11 of taxes, is amended to read as follows:

12 (a) The ~~Director~~ Secretary of the Department of Finance and
13 Administration shall deposit all local sales and use taxes collected under
14 this subchapter with the Treasurer of State.

15
16 SECTION 4370. Arkansas Code § 26-75-409 is amended to read as follows:
17 26-75-409. Administration, etc.

18 (a)(1) On and after the effective date of any tax imposed pursuant to
19 the provisions of this subchapter, the ~~Director~~ Secretary of the Department
20 of Finance and Administration shall perform all functions incidental to the
21 administration, collection, enforcement, and operation of the tax.

22 (2) The ~~director~~ secretary shall collect taxes levied pursuant
23 to this subchapter at the same time and in the same manner as the ~~director~~
24 secretary collects the state gross receipts tax and the state compensating
25 tax.

26 (b) When notified that any tax levied under this subchapter has
27 expired or has been abolished, the ~~director~~ secretary shall cease to collect
28 the tax as provided in this subchapter.

29
30 SECTION 4371. Arkansas Code § 26-75-410 is amended to read as follows:
31 26-75-410. Rules and regulations.

32 The ~~Director~~ Secretary of the Department of Finance and Administration
33 shall adopt appropriate rules and regulations not inconsistent with the
34 provisions of this subchapter to implement the enforcement, administration,
35 and collection of the taxes authorized in this subchapter.

36

1 SECTION 4372. Arkansas Code § 26-75-502(b), concerning the authority
2 to levy a tax, is amended to read as follows:

3 (b) Rules and regulations promulgated by the ~~Director~~ Secretary of the
4 Department of Finance and Administration for the State of Arkansas in
5 connection with the collection and administration of the state gross receipts
6 tax shall be equally applicable with respect to any tax levied under this
7 subchapter.

8
9 SECTION 4373. Arkansas Code § 26-75-503(d)(2) and (3), concerning
10 election requirements of a city of the first class or second class, are
11 amended to read as follows:

12 (2) However, no such tax shall be collected under any such
13 ordinance until the first day of a calendar quarter after a minimum of sixty
14 (60) days' notice by the ~~Director~~ Secretary of the Department of Finance and
15 Administration to sellers.

16 (3) For a purchase made from a printed catalog in which the
17 purchaser computed the tax based upon local tax rates published in the
18 catalog, the tax shall be collected on the first day of the quarter after a
19 minimum of one hundred twenty (120) days' notice by the ~~director~~ secretary to
20 sellers.

21
22 SECTION 4374. Arkansas Code § 26-75-504 is amended to read as follows:
23 26-75-504. Certification of tax.

24 When the levy of the tax authorized in this subchapter has been
25 approved in a city of the first class or city of the second class as provided
26 in this subchapter, the governing body of the city shall certify to the
27 ~~Director~~ Secretary of the Department of Finance and Administration that such
28 tax has become operative and shall furnish to the ~~director~~ secretary the rate
29 of the tax, including any limitations thereon, and the date on which it shall
30 become operative.

31
32 SECTION 4375. Arkansas Code § 26-75-505 is amended to read as follows:
33 26-75-505. Collection of tax.

34 (a) The ~~Director~~ Secretary of the Department of Finance and
35 Administration shall collect the tax levied under this subchapter
36 concurrently with and in the same manner as taxes collected under the

1 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas
2 Compensating Tax Act of 1949, § 26-53-101 et seq.

3 (b) This additional tax shall be collected by the ~~director~~ secretary
4 for the benefit of the city and shall be deposited into the Local Sales and
5 Use Tax Trust Fund for distribution back to the city.

6

7 SECTION 4376. Arkansas Code § 26-75-506(a), concerning the disposition
8 of revenues, is amended to read as follows:

9 (a) All revenues collected by the ~~Director~~ Secretary of the Department
10 of Finance and Administration pursuant to the provisions of this subchapter,
11 less three percent (3%) thereof which shall be deducted as a cost of
12 collection and deposited into the State Treasury to the credit of the
13 Constitutional Officers Fund and the State Central Services Fund, shall be
14 remitted by the ~~director~~ secretary to the levying city at the same time the
15 ~~director~~ secretary remits sales tax revenues to the State Treasury.

16

17 SECTION 4377. Arkansas Code § 26-81-106(a)(2), concerning election
18 results, election challenge, and effective date of a tax, is amended to read
19 as follows:

20 (2) The county judge shall notify the ~~Director~~ Secretary of the
21 Department of Finance and Administration of the results after publication of
22 the proclamation has occurred and ninety (90) days before the effective date
23 of the tax.

24

25 SECTION 4378. Arkansas Code § 26-81-106(a)(3)(A), concerning election
26 results, election challenge, and effective date of a tax, is amended to read
27 as follows:

28 (3)(A) If no election challenge is timely filed, there shall be
29 levied, effective on the first day of the first month of the calendar quarter
30 after the expiration of the thirty-day challenge period and after a minimum
31 of sixty (60) days' notice by the ~~director~~ secretary to sellers, a one
32 percent (1%) tax on the gross receipts from the sale at retail within the
33 county on all items that are subject to the Arkansas Gross Receipts Act of
34 1941, § 26-52-101 et seq., and an excise tax on the storage, use, or
35 consumption within the county of tangible personal property and services
36 purchased, leased, or rented from any retailer outside the state for storage,

1 use, or other consumption in the county, at a rate of one percent (1%) of the
2 sale price of the property or services or, in the case of leases or rentals,
3 of the lease or rental price, the rate of the use tax to correspond to the
4 rate of the sales tax portion of the tax.

5
6 SECTION 4378. Arkansas Code § 26-81-107(a), concerning the deposit
7 with the Treasurer of State and the record of collections, is amended to read
8 as follows:

9 (a) The ~~Director~~ Secretary of the Department of Finance and
10 Administration shall maintain a record of the total amount of tax collected
11 pursuant to this chapter and other subchapters authorizing county sales and
12 use tax in each county and shall deposit all such revenues with the Treasurer
13 of State.

14
15 SECTION 4380. Arkansas Code § 26-81-108(c), concerning the
16 distribution of a tax levied, is amended to read as follows:

17 (c)(1) When any tax adopted by a county pursuant to this chapter is
18 terminated, the ~~Director~~ Secretary of the Department of Finance and
19 Administration shall retain in the account of that county in the Local Sales
20 and Use Tax Trust Fund for a period of one (1) year an amount equal to five
21 percent (5%) of the final remittance to the county and municipalities therein
22 at the time of termination of the collection of the tax to:

23 (A) Cover possible rebates by the county;
24 (B) Cover refunds for overpayment of taxes; and
25 (C) Redeem dishonored checks and drafts deposited to the
26 credit of the Local Sales and Use Tax Trust Fund.

27 (2) After one (1) year has elapsed after the effective date of
28 the abolition of the tax in any county, the ~~director~~ secretary shall transfer
29 the balance in that county's account to the county and municipalities in the
30 county and shall close the account.

31
32 SECTION 4381. Arkansas Code § 26-81-109 is amended to read as follows:

33 26-81-109. Rules and regulations.

34 The ~~Director~~ Secretary of the Department of Finance and Administration
35 may promulgate reasonable rules and regulations not inconsistent with the
36 provisions of this chapter to implement the administration, collection,

1 enforcement, and operation of the taxes authorized in this chapter.

2
3 SECTION 4382. Arkansas Code § 26-81-110(a)(3), concerning combined tax
4 reports, is amended to read as follows:

5 (3) This subsection only applies to a tax collected by the
6 ~~Director~~ Secretary of the Department of Finance and Administration.

7
8 SECTION 4383. Arkansas Code § 26-82-103(b), concerning the authority
9 to levy a local sales and use tax, is amended to read as follows:

10 (b) A certified copy of the ordinance authorizing the levy of a local
11 sales and use tax shall be provided to the ~~Director~~ Secretary of the
12 Department of Finance and Administration as soon as practicable after the
13 adoption of the ordinance.

14
15 SECTION 4384. Arkansas Code § 26-82-103(d)(2)(A), concerning the
16 authority to levy a local sales and use tax, is amended to read as follows:

17 (2)(A) Except as otherwise provided in § 26-82-106, to provide
18 for the accomplishment of the administrative duties of the ~~director~~
19 secretary, the local sales and use tax shall terminate on the first day of
20 the calendar quarter after the expiration of ninety (90) days from the date
21 there is filed with the ~~director~~ secretary a written statement signed by the
22 chief executive officer of the city or county levying the local sales and use
23 tax and identifying the local sales and use tax to be terminated.

24
25 SECTION 4385. The introductory language of Arkansas Code § 26-82-
26 104(b)(3)(D)(i), concerning the election to adopt an ordinance levying a
27 local sales and use tax, is amended to read as follows:

28 (D)(i) To extend the local sales and use tax levied under
29 this chapter to a new expiration date, the levying entity shall notify the
30 ~~Director~~ Secretary of the Department of Finance and Administration of the new
31 expiration date approved by the voters:

32
33 SECTION 4386. The introductory language of Arkansas Code § 26-82-105,
34 concerning requirements and effective dates, is amended to read as follows:

35 To provide time to prepare for an election required under this chapter
36 and to provide time for the ~~Director~~ Secretary of the Department of Finance

1 and Administration to accomplish his or her duties, the following
2 requirements apply to an ordinance levying a local sales and use tax under
3 this chapter:

4
5 SECTION 4387. The introductory language of Arkansas Code § 26-82-
6 105(3)(A), concerning requirements and effective dates, is amended to read as
7 follows:

8 (3)(A) As directed by the governing body of the levying entity
9 and after the written plan has been approved by the governing body of the
10 levying entity under subdivision (2) of this section, the mayor or county
11 judge of the levying entity shall notify the ~~director~~ secretary of the rate
12 change:

13
14 SECTION 4388. Arkansas Code § 26-82-105(3)(C), concerning requirements
15 and effective dates, is amended to read as follows:

16 (C) The rate change on a purchase from a printed catalog
17 in which the purchaser computed the tax based upon local tax rates published
18 in the catalog is effective on the first day of a calendar quarter after a
19 minimum of one hundred twenty (120) days' notice by the ~~director~~ secretary to
20 the sellers; and

21
22 SECTION 4389. Arkansas Code § 26-82-106(d)(1), concerning the
23 abolition of a tax, is amended to read as follows:

24 (d)(1) The effective date of an affirmative vote by the governing body
25 of the levying entity to abolish the local sales and use tax under subsection
26 (a) of this section shall be on the first day of the calendar quarter after
27 the expiration of ninety (90) days from the date a written statement signed
28 by the mayor or county judge of the levying entity abolishing the tax is
29 filed with the ~~Director~~ Secretary of the Department of Finance and
30 Administration certifying that the governing body of the levying entity has
31 adopted an ordinance abolishing the local sales and use tax.

32
33 SECTION 4390. Arkansas Code § 26-82-107 is amended to read as follows:
34 26-82-107. Notice of adoption or abolition of tax.

35 No later than ten (10) days following each of the events stated in the
36 ordinance with reference to the procedure for the adoption or abolition of

1 the local sales and use tax and the effective dates of the action under this
2 chapter, the clerk of the levying entity shall notify the ~~Director~~ Secretary
3 of the Department of Finance and Administration of the event.

4
5 SECTION 4391. Arkansas Code § 26-82-108(b), concerning the collection
6 of a local sales and use tax, is amended to read as follows:

7 (b) The local sales and use tax levied under this chapter on new and
8 used motor vehicles shall be collected by the ~~Director~~ Secretary of the
9 Department of Finance and Administration directly from the purchaser under §
10 26-52-510.

11
12 SECTION 4392. Arkansas Code § 26-82-109(a) and (b), concerning the
13 administration of a local sales and use tax, are amended to read as follows:

14 (a) On and after the effective date of a local sales and use tax
15 imposed under this chapter, the ~~Director~~ Secretary of the Department of
16 Finance and Administration shall perform all functions incidental to the
17 administration, collection, enforcement, and operation of the local sales and
18 use tax.

19 (b) In addition to the state gross receipts tax and compensating tax,
20 the ~~director~~ secretary shall collect the additional tax under this chapter on
21 the receipts from the sale at retail or on the sale price or lease or rental
22 price on the storage, use, distribution, or other consumption of all taxable
23 items and services subject to the Arkansas Gross Receipts Act of 1941, § 26-
24 52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et
25 seq.

26
27 SECTION 4393. Arkansas Code § 26-82-109(c)(1), concerning the
28 administration of a local sales and use tax, is amended to read as follows:

29 (c)(1) The local sales and use tax imposed under this chapter and the
30 tax imposed under the gross receipts tax and compensating tax shall be
31 collected together and reported upon the forms and under the administrative
32 rules that are prescribed by the ~~director~~ secretary and that are not
33 inconsistent with this chapter.

34
35 SECTION 4394. Arkansas Code § 26-82-109(c)(5), concerning the
36 administration of a local sales and use tax, is amended to read as follows:

1 (5) This subsection applies only to a tax collected by the
2 ~~director~~ secretary.

3
4 SECTION 4395. Arkansas Code § 26-82-109(d), concerning the
5 administration of a local sales and use tax, is amended to read as follows:

6 (d) On and after the effective date of an ordinance to abolish a local
7 sales and use tax in any levying entity, the ~~director~~ secretary shall comply
8 with the ordinance under this chapter.

9
10 SECTION 4396. Arkansas Code § 26-82-111(b)(2)(A), concerning the
11 disposition of funds, is amended to read as follows:

12 (A) For overpayments made to the account after the refunds
13 have been approved by the ~~Director~~ Secretary of the Department of Finance and
14 Administration; and

15
16 SECTION 4397. Arkansas Code § 26-82-112(a), concerning the penalties
17 and enforcement used by the Director of the Department of Finance and
18 Administration in enforcing a local sales and use tax, is amended to read as
19 follows:

20 (a) The procedures and penalties used by the ~~Director~~ Secretary of the
21 Department of Finance and Administration in enforcing a local sales and use
22 tax imposed under this chapter shall be the same as for the state gross
23 receipts tax and compensating tax unless otherwise provided in this chapter.

24
25 SECTION 4398. Arkansas Code § 26-82-112(b)(1), concerning the
26 penalties and enforcement used by the Director of the Department of Finance
27 and Administration in enforcing a local sales and use tax, is amended to read
28 as follows:

29 (b)(1) When property is seized by the ~~director~~ secretary under any
30 statute authorizing seizure of property of a taxpayer who is delinquent in
31 payment of the taxes imposed by the Arkansas Gross Receipts Act of 1941, §
32 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101
33 et seq., and when the taxpayer is also delinquent in payment of any local
34 sales and use tax imposed under this chapter, the ~~director~~ secretary shall
35 sell sufficient property to pay the delinquent local sales and use taxes and
36 penalties due to any levying entity under this chapter in addition to the

1 amount required to pay any taxes due to the state under the Arkansas Gross
2 Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax
3 Act of 1949, § 26-53-101 et seq.

4
5 SECTION 4399. Arkansas Code § 26-82-119 is amended to read as follows:
6 26-82-119. Rules.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 may promulgate reasonable rules to implement the enforcement, administration,
9 and collection of a local sales and use tax authorized in this chapter.

10
11 SECTION 4400. Arkansas Code § 27-13-103 is amended to read as follows:
12 27-13-103. Regulations.

13 The ~~Director~~ Secretary of the Department of Finance and Administration
14 shall have the authority to promulgate such regulations as are necessary to
15 implement and administer the provisions of this act.

16
17 SECTION 4401. Arkansas Code § 27-14-103(a)(2)(A), concerning the
18 exemption from registration for the Arkansas Forestry Commission, is amended
19 to read as follows:

20 (2)(A) The State Forester and the ~~Director~~ Secretary of the
21 Department of Finance and Administration shall adopt identification tags or
22 other insignia that shall be attached to the vehicles by the officers,
23 members, and employees of the commission.

24
25 SECTION 4402. Arkansas Code § 27-14-305(a), concerning the penalty for
26 using or making unofficial license plates, is amended to read as follows:

27 (a) It shall be unlawful for the owner of any automobile, Class One
28 truck, trailer or semitrailer, motorcycle, or motorcycle sidecar to display
29 any license plate on the rear of the vehicle that is not furnished by the
30 ~~Director~~ Secretary of the Department of Finance and Administration.

31
32 SECTION 4403. Arkansas Code § 27-14-305(b)(3)(B), concerning the
33 penalty for using or making unofficial license plates, is amended to read as
34 follows:

35 (B) Affixing of a decal bearing the commercial motor
36 carrier's logo to a commercial motor vehicle's license plate if the decal has

1 been authorized and approved by the ~~director~~ secretary or the ~~director's~~
2 secretary's designee as authorized under § 27-14-613.

3
4 SECTION 4404. Arkansas Code § 27-14-309(a), concerning failure to pay
5 taxes on personal property or assess personal property as grounds for
6 revocation, is amended to read as follows:

7 (a) Upon sufficient proof or information that any motor vehicle has
8 been licensed and registered in this state without the tax due on all the
9 personal property of the applicant having been paid or without having been
10 listed for assessment or assessed, the ~~Director~~ Secretary of the Department
11 of Finance and Administration is authorized to revoke the license and
12 registration of the motor vehicle.

13
14 SECTION 4405. Arkansas Code § 27-14-311(a)(1), concerning an appeal of
15 revocation of a license or permit by a dealer, is amended to read as follows:

16 (a)(1) Any dealer whose license or permit has been revoked by the
17 ~~Director~~ Secretary of the Department of Finance and Administration may appeal
18 to the circuit court of the county in which the dealer's license or permit
19 was issued, within thirty (30) days, by filing a petition and bond as in
20 other cases of appeal to the circuit court.

21
22 SECTION 4406. Arkansas Code § 27-14-402 is amended to read as follows:
23 27-14-402. Head of Office of Motor Vehicle.

24 The Office of Motor Vehicle shall be under the control of the ~~Director~~
25 Secretary of the Department of Finance and Administration.

26
27 SECTION 4407. Arkansas Code § 27-14-403 is amended to read as follows:
28 27-14-403. Powers and duties.

29 (a) The ~~Director~~ Secretary of the Department of Finance and
30 Administration is vested with the power and is charged with the duty of
31 observing, administering, and enforcing the provisions of this chapter and of
32 all laws regulating the operation of vehicles or the use of the highways, the
33 enforcement or administration of which is vested in the Office of Motor
34 Vehicle.

35 (b) The ~~director~~ secretary may adopt and enforce such rules as
36 necessary to carry out the provisions of this chapter and any other laws, the

1 enforcement and administration of which are vested in the office.

2 (c) The ~~director~~ secretary may adopt an official seal for the use of
3 the office.

4
5 SECTION 4408. Arkansas Code § 27-14-404 is amended to read as follows:
6 27-14-404. Organization.

7 (a) The ~~Director~~ Secretary of the Department of Finance and
8 Administration shall organize the Office of Motor Vehicle in the manner as he
9 or she may deem necessary and proper to segregate and conduct the work of the
10 office.

11 (b) The ~~director~~ secretary shall appoint such deputies, subordinate
12 officers, clerks, investigators, and other employees as may be necessary to
13 carry out the provisions of this chapter.

14 (c) The ~~director~~ secretary shall maintain an office in Little Rock,
15 Arkansas, and in such other places in the state as he or she may deem
16 necessary and proper to carry out the powers and duties vested in the office.
17

18 SECTION 4409. The introductory language of Arkansas Code § 27-14-405,
19 concerning the authority of police and the officers and inspectors of the
20 Office of Motor Vehicle, is amended to read as follows:

21 The ~~Director~~ Secretary of the Department of Finance and Administration
22 and the officers and inspectors of the Office of Motor Vehicle designated by
23 the ~~director~~ secretary shall have the power:
24

25 SECTION 4410. Arkansas Code § 27-14-407(a)(1), concerning summons of
26 witnesses by the Director of the Department of Finance and Administration, is
27 amended to read as follows:

28 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
29 Administration and officers of the Office of Motor Vehicle designated by the
30 ~~director~~ secretary shall have authority to summon witnesses to give testimony
31 under oath or to give written deposition upon any matter under the
32 jurisdiction of the office.
33

34 SECTION 4411. Arkansas Code § 27-14-407(c), concerning summons of
35 witnesses by the Director of the Department of Finance and Administration, is
36 amended to read as follows:

1 (c) Any court of competent jurisdiction shall have jurisdiction, upon
2 application by the ~~director~~ secretary, to enforce all lawful orders of the
3 ~~director~~ secretary under this section.
4

5 SECTION 4412. Arkansas Code § 27-14-410 is amended to read as follows:
6 27-14-410. Forms.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 shall prescribe and provide suitable forms of applications, certificates of
9 title, registration certificates, and all other forms requisite or necessary
10 to carry out the provisions of this chapter and any other laws, the
11 enforcement and administration of which are vested in the Office of Motor
12 Vehicle.
13

14 SECTION 4413. Arkansas Code § 27-14-411(a), concerning the oaths and
15 signatures of officers and employees of the Office of Motor Vehicle, is
16 amended to read as follows:

17 (a) Officers and employees of the Office of Motor Vehicle designated
18 by the ~~Director~~ Secretary of the Department of Finance and Administration
19 are, for the purpose of administering the motor vehicle laws, authorized to
20 administer oaths and acknowledge signatures.
21

22 SECTION 4414. Arkansas Code § 27-14-412(b)(1), concerning the records
23 of the Office of Motor Vehicle, is amended to read as follows:

24 (b)(1) The ~~Director~~ Secretary of the Department of Finance and
25 Administration and such officers of the office as the ~~director~~ secretary may
26 designate are authorized to prepare under the seal of the office and deliver
27 upon request a certified copy of any record of the office or a noncertified
28 electronic copy of any record of the office.
29

30 SECTION 4415. Arkansas Code § 27-14-412(c), concerning the records of
31 the Office of Motor Vehicle, is amended to read as follows:

32 (c) The ~~director~~ secretary may destroy any records of the office that
33 have been maintained on file for five (5) years that the ~~director~~ secretary
34 considers obsolete and of no further service in carrying out the powers and
35 duties of the office.
36

1 SECTION 4416. Arkansas Code § 27-14-501 is amended to read as follows:
2 27-14-501. Creation.

3 An ex officio commission, composed of the ~~Director~~ Secretary of the
4 Department of Finance and Administration, who shall serve as chair, the Chair
5 of the State Highway Commission, and the Director of State Highways and
6 Transportation, is established for the purpose of representing the State of
7 Arkansas in the matter of making reciprocal agreements relating to the
8 operation of motor vehicles.

9

10 SECTION 4417. The introductory language of Arkansas Code § 27-14-
11 504(a), concerning a proportionate refund of registration fees authorized, is
12 amended to read as follows:

13 (a) The ~~Director~~ Secretary of the Department of Finance and
14 Administration is authorized to refund a proportionate part of the
15 registration fees paid to this state under the provisions of the
16 International Registration Plan which became effective July 1, 1976, under
17 the following conditions:

18

19 SECTION 4418. Arkansas Code § 27-14-504(b) and (c), concerning a
20 proportionate refund of registration fees authorized, are amended to read as
21 follows:

22 (b) The refund will be in an amount equal to that proportionate amount
23 of the remaining registration year beginning with the month next following
24 that month in which the ~~director~~ secretary is notified that the registrant
25 wishes to cancel his or her registration by surrendering all registration
26 documents and license plates.

27 (c) The ~~director~~ secretary is authorized to promulgate such rules and
28 regulations as may be necessary to effectuate the terms of this section.

29

30 SECTION 4419. Arkansas Code § 27-14-505(b)(1)(A) and (B), concerning
31 mileage audits, records reexaminations, and appeals, are amended to read as
32 follows:

33 (b)(1)(A) A registrant who desires a hearing to appeal the findings of
34 a mileage audit or a record reexamination shall notify the ~~Director~~ Secretary
35 of the Department of Finance and Administration in writing within thirty (30)
36 calendar days from the date the registrant is notified of the findings of the

1 mileage audit or the record reexamination.

2 (B) A hearing officer appointed by the ~~director~~ secretary
3 shall schedule a hearing in any city in which the Department of Finance and
4 Administration maintains a field audit district office or in any other city
5 that the ~~director~~ secretary designates, unless the ~~director~~ secretary and the
6 registrant agree to another location for the hearing or agree that the
7 hearing shall be heard by telephone.

8

9 SECTION 4420. Arkansas Code § 27-14-505(b)(2)(B), concerning mileage
10 audits, records reexaminations, and appeals, is amended to read as follows:

11 (B) The registrant shall properly serve the ~~director~~
12 secretary with a copy of any appeal to circuit court challenging the decision
13 of the hearing officer under this section.

14

15 SECTION 4421. Arkansas Code § 27-14-505(b)(4)(A), concerning mileage
16 audits, records reexaminations, and appeals, is amended to read as follows:

17 (4)(A) At the conclusion of the appeals process, the ~~director~~
18 secretary shall notify all affected member jurisdictions of the results of
19 the appeal.

20

21 SECTION 4422. Arkansas Code § 27-14-505(c), concerning mileage audits,
22 records reexaminations, and appeals, is amended to read as follows:

23 (c) The ~~director~~ secretary may promulgate rules to implement this
24 section.

25

26 SECTION 4423. Arkansas Code § 27-14-601(a)(3)(H)(iv), concerning fees
27 for registration and licensing of motor vehicles, is amended to read as
28 follows:

29 (iv) The ~~Director~~ Secretary of the Department of
30 Finance and Administration shall cause to be issued special and distinctive
31 license plates for vehicles in this classification, with separate farm
32 license plates to be established for those vehicles used in the noncommercial
33 hauling of farm products produced in this state, and for the hauling of feed,
34 seed, fertilizer, poultry litter, and other products commonly produced or
35 used in agricultural operations or compacted seed cotton and separate natural
36 resources license plates to be established for those vehicles hauling timber

1 products, clay minerals, or ores.

2
3 SECTION 4424. Arkansas Code § 27-14-601(a)(3)(H)(vi)(b), concerning
4 fees for registration and licensing of motor vehicles, is amended to read as
5 follows:

6 (b) The ~~director~~ secretary shall issue special
7 distinctive license plates or license plate validation decals for the
8 vehicles, including the indication thereon of the expiration date, so as to
9 identify them from annual plates.

10
11 SECTION 4425. Arkansas Code § 27-14-601(a)(3)(H)(viii), concerning
12 fees for registration and licensing of motor vehicles, is amended to read as
13 follows:

14 (viii) The ~~director~~ secretary shall promulgate such
15 rules and regulations as may be necessary to carry out the intent of this
16 classification and prevent abuse thereof. However, before any such rules or
17 regulations shall be effective, they shall be approved by majority action of
18 the members of the State Highway Commission acting for and in behalf of the
19 Arkansas Highway Police Division of the Arkansas Department of
20 Transportation, which is the agency charged with the principal responsibility
21 of enforcing the motor vehicle license laws of this state.

22
23 SECTION 4426. Arkansas Code § 27-14-601(a)(3)(J)(i) and (ii),
24 concerning fees for registration and licensing of motor vehicles, are amended
25 to read as follows:

26 (J)(i) The ~~director~~ secretary shall cause to be issued
27 special and distinctive license plates for vehicles licensed under Class Two
28 – Class Seven in this section, which are utilized as wreckers or tow vehicles
29 and that hold a permit issued by the Arkansas Towing and Recovery Board under
30 § 27-50-1203 and the rules and regulations promulgated thereunder.

31 (ii) Before any license may be issued for a vehicle
32 designated as a wrecker or tow vehicle, the applicant shall furnish to the
33 ~~director~~ secretary a certification from the board that the wrecker or tow
34 vehicle has been permitted as a wrecker or tow vehicle by the board.

35
36 SECTION 4427. Arkansas Code § 27-14-601(a)(3)(J)(iv), concerning fees

1 for registration and licensing of motor vehicles, is amended to read as
2 follows:

3 (iv) In addition to the fee for the respective Class
4 Two – Class Seven license, the ~~director~~ secretary may assess a handling and
5 administrative fee in the amount of ten dollars (\$10.00) for each distinctive
6 wrecker or tow vehicle license plate.

7
8 SECTION 4428. Arkansas Code § 27-14-601(a)(6)(B)(i), concerning fees
9 for registration and licensing of motor vehicles, is amended to read as
10 follows:

11 (B)(i) As a condition precedent to obtaining dealer's
12 license plates, the dealer shall furnish the ~~director~~ secretary a
13 certification that the applicant is a vehicle dealer and has a bona fide,
14 established place of business used for the sale of vehicles, an office used
15 for that business, a telephone listed in the name of the business, and a sign
16 identifying the establishment. Certification shall be required for all
17 renewals of dealer license plates. This dealer certification shall not apply
18 to dealers licensed by the ~~Department~~ Division of Arkansas State Police, the
19 Arkansas Motor Vehicle Commission, or the Arkansas Manufactured Home
20 Commission and who are regulated by those authorities. The dealer
21 certification shall consist of completion of a self-certification form
22 prepared by the Office of Motor Vehicle.

23
24 SECTION 4429. Arkansas Code § 27-14-601(a)(6)(B)(ii)(a), concerning
25 fees for registration and licensing of motor vehicles, is amended to read as
26 follows:

27 (ii)(a) Except as provided in subdivision
28 (a)(6)(B)(iv) of this section for dealers who sell only all-terrain vehicles,
29 upon furnishing the certification to the ~~director~~ secretary, or a copy of the
30 dealer's license from either the ~~Department~~ Division of Arkansas State Police
31 or the Arkansas Motor Vehicle Commission and the payment of a fee of one
32 hundred dollars (\$100), the dealer shall be issued a master license plate and
33 upon the payment of a fee of twenty-five dollars (\$25.00) shall be issued a
34 dealer's extra license plate as provided in § 27-14-1704. However, the dealer
35 must secure a master license plate for each separate place of business.

36

1 SECTION 4430. Arkansas Code § 27-14-601(a)(6)(B)(iii)(a), concerning
2 fees for registration and licensing of motor vehicles, is amended to read as
3 follows:

4 (iii)(a) Upon furnishing certification to the
5 ~~director~~ secretary or a copy of the dealer's license from the Arkansas
6 Manufactured Home Commission and upon the payment of fifty dollars (\$50.00),
7 the manufactured home dealer shall be issued certification from the ~~director~~
8 secretary for the purpose of assigning manufactured home titles.

9
10 SECTION 4431. Arkansas Code § 27-14-601(a)(6)(B)(iv)(a) and (b),
11 concerning fees for registration and licensing of motor vehicles, are amended
12 to read as follows:

13 (iv)(a) Upon furnishing certification to the
14 ~~director~~ secretary or a copy of the dealer's license from the Arkansas Motor
15 Vehicle Commission and upon the payment of one hundred dollars (\$100),
16 dealers engaged exclusively in the business of buying and selling all-terrain
17 vehicles, as defined in § 27-21-102, shall be issued certification from the
18 ~~director~~ secretary for the purpose of assigning all-terrain vehicle titles.

19 (b) Each dealer location shall be treated as a
20 separate entity, and certification by the ~~director~~ secretary shall be
21 required for each location.

22
23 SECTION 4432. Arkansas Code § 27-14-601(b)(2)(D)(i) and (ii),
24 concerning fees for registration and licensing of motor vehicles, are amended
25 to read as follows:

26 (D)(i) The ~~director~~ secretary shall, upon request, assign
27 the same registration period to any owner of two (2) or more trucks, truck-
28 tractors, trailers, and semitrailers, and combinations thereof, except Class
29 One trucks as defined in § 27-14-1002.

30 (ii) The ~~director~~ secretary shall, upon request,
31 assign a different month of registration other than the vehicle's current
32 month of registration to any owner of a truck, truck-tractor, trailer, and
33 semitrailer, and combinations thereof, except Class One trucks as defined in
34 § 27-14-1002, and all fees shall be prorated accordingly on a monthly basis.

35
36 SECTION 4433. The introductory language of Arkansas Code § 27-14-

1 602(c), concerning registration fees for motor vehicle registrations, is
2 amended to read as follows:

3 (c) Beginning January 1, 2018, in addition to any other fees
4 authorized under this chapter, the ~~Director~~ Secretary of the Department of
5 Finance and Administration shall charge a fee for commercial motor vehicles
6 registered with the International Registration Plan in the amount of:

7

8 SECTION 4434. Arkansas Code § 27-14-602(c)(1), concerning registration
9 fees for motor vehicle registrations, is amended to read as follows:

10 (1) Two dollars (\$2.00) to access the ~~director's~~ secretary's
11 portal to register one (1) or more commercial motor vehicles or to conduct
12 one (1) or more online administrative transactions;

13

14 SECTION 4435. Arkansas Code § 27-14-605 is amended to read as follows:
15 27-14-605. Credit if vehicle destroyed.

16 Upon satisfactory proof to the ~~Director~~ Secretary of the Department of
17 Finance and Administration that any motor vehicle, duly licensed, has been
18 completely destroyed by fire or collision, the owner of the vehicle may be
19 allowed, on the purchase of a new license for another vehicle, a credit
20 equivalent to the unexpired portion of the cost of the original license,
21 dating from the first day of the next month after the date of the
22 destruction.

23

24 SECTION 4436. Arkansas Code § 27-14-607 is amended to read as follows:
25 27-14-607. Alternate registration procedures.

26 (a) The ~~Director~~ Secretary of the Department of Finance and
27 Administration is authorized to allow vehicles to be registered for a renewal
28 period of two (2) years, if the ~~director~~ secretary determines that the two-
29 year renewal period would facilitate the vehicle registration process. If a
30 vehicle registration is renewed for a two-year period, the renewal fee shall
31 be two (2) times the annual renewal fee for that vehicle, plus the cost of
32 the annual license plate validation decal for both years for that vehicle.

33 (b) The ~~director~~ secretary is authorized to provide for the
34 registration of vehicles by mail, telephone, electronically, or any other
35 method which the ~~director~~ secretary determines would facilitate the vehicle
36 registration process.

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SECTION 4437. Arkansas Code § 27-14-608 is amended to read as follows:
27-14-608. Payment by credit card.

(a) The ~~Director~~ Secretary of the Department of Finance and Administration is authorized to promulgate regulations providing for payment by credit card of any fees or taxes due upon the issuance or renewal of a vehicle registration, except a vehicle registration issued or renewed under the provisions of § 27-14-601(a)(3)(B)-(H) or the provisions of § 27-14-601(a)(3)(I)(i)(a)(2)-(4) . The ~~director~~ secretary may allow the payment of these fees or taxes by credit card if the ~~director~~ secretary determines that payment by credit card would facilitate the administration of the motor vehicle registration program.

(b) The ~~director~~ secretary is authorized to enter into contracts with credit card companies and to pay fees normally charged by those companies for allowing the use of their credit cards as authorized by this section.

(c)(1) From the net proceeds received, or receivable, from credit card companies for all fees or taxes paid by credit card, the ~~director~~ secretary shall pay the full sum specified in § 27-14-1015(d)(1) to the Arkansas Development Finance Authority. The balance of the net proceeds received, or receivable, from credit card companies shall be prorated to the various funds for which they were collected and deposited into the State Treasury for transfer on the last business day of each month, in the same manner and to be used for the same purposes as all other fees and taxes collected upon the issuance or renewal of vehicle registrations.

(2) Any amounts deducted from the gross proceeds of vehicle registration fees or taxes paid by credit card, which are deducted for the purpose of paying credit card company fees, shall be cash funds not subject to appropriation and, if withheld by the ~~director~~ secretary, shall be remitted by the ~~director~~ secretary to credit card companies as required under contracts authorized by this section.

SECTION 4438. Arkansas Code § 27-14-611(f)(2), concerning registration for nonprofit motor vehicle fleets, is amended to read as follows:

(2) If the ~~Director~~ Secretary of the Department of Finance and Administration determines that online renewals are available under this section, the organization may be allowed to renew online.

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SECTION 4439. The introductory language of Arkansas Code § 27-14-613(b)(1), concerning the Arkansas Motor Carrier System, is amended to read as follows:

(b)(1) The ~~Director~~ Secretary of the Department of Finance and Administration shall promulgate rules, regulations, and procedures to enhance the Arkansas Motor Carrier System developed by the Department of Finance and Administration by allowing:

SECTION 4440. Arkansas Code § 27-14-613(b)(1)(C), concerning the Arkansas Motor Carrier System, is amended to read as follows:

(C) A commercial motor carrier or its designee to obtain and affix to a commercial motor vehicle license plate a decal bearing the logo of the commercial motor carrier approved by the ~~director~~ secretary or the ~~director's~~ secretary's designee; and

SECTION 4441. Arkansas Code § 27-14-613(b)(2)(B), concerning the Arkansas Motor Carrier System, is amended to read as follows:

(B) If the department has not received the source documents required under subdivision (b)(2)(A) of this section within thirty (30) days of the online registration of a commercial motor vehicle, the ~~director~~ secretary or the ~~director's~~ secretary's designee may suspend the registration.

SECTION 4442. Arkansas Code § 27-14-613(c), concerning the Arkansas Motor Carrier System, is amended to read as follows:

(c) The ~~director~~ secretary shall study, develop, and implement improvements to the Arkansas Motor Carrier System in order to modernize and enhance the Arkansas Motor Carrier System and accommodate the latest available technology for commercial motor carriers seeking to register commercial motor vehicles in the State of Arkansas.

SECTION 4443. Arkansas Code § 27-14-701(b), concerning requirements and exceptions for motor vehicle permits, is amended to read as follows:

(b) When an application accompanied by the proper fee has been made for registration and certificate of title for a vehicle, the vehicle may be

1 operated temporarily pending complete registration upon displaying a
2 duplicate application, duly verified, or other evidence of the application or
3 otherwise under rules and regulations promulgated by the ~~Director~~ Secretary
4 of the Department of Finance and Administration.

5
6 SECTION 4444. Arkansas Code § 27-14-702(a), concerning the requirement
7 of only a certificate from the Director of the Department of Finance and
8 Administration to use and operate a motor vehicle, is amended to read as
9 follows:

10 (a) No owner of a motor vehicle who shall have obtained a certificate
11 from the ~~Director~~ Secretary of the Department of Finance and Administration
12 as provided in this subchapter shall be required to obtain any other license
13 or permits to use and operate the motor vehicle; nor shall the owner be
14 required to display upon his or her motor vehicle any other number than the
15 number of the registration issued by the ~~director~~ secretary, or excluded, or
16 prohibited, or limited in the free use of the motor vehicle upon any public
17 street, avenue, road, turnpike, driveway, parkway, or any other public place,
18 at any time when it is open to the use of persons having or using other
19 vehicles; nor shall the owner be required to comply with other provisions or
20 conditions as to the use of motor vehicles, except as provided in this
21 chapter.

22
23 SECTION 4445. Arkansas Code § 27-14-704(a)(3)(B), concerning motor
24 vehicles registered in foreign states, is amended to read as follows:

25 (B) The ~~Director~~ Secretary of the Department of Finance
26 and Administration may issue temporary permits without payment of license
27 fees for motor vehicles operated for hire by a nonresident into and across
28 the highways of this state when the vehicles are operated upon charters for
29 casual, irregular, occasional, and nonscheduled sightseeing trips; and

30
31 SECTION 4446. Arkansas Code § 27-14-704(a)(4), concerning motor
32 vehicles registered in foreign states, is amended to read as follows:

33 (4) The ~~director~~ secretary is authorized and empowered to enter
34 into any agreement or issue any permit for the operation of any motor
35 vehicles upon the highways of this state without payment of license fees when
36 the vehicles are operated under and by the supervision of the proper

1 authorities of the United States Army, United States Air Force, United States
2 Navy, or United States Marine Corps during any period of emergency.

3
4 SECTION 4447. Arkansas Code § 27-14-705(b)(2)(C), concerning the
5 application for registration and certificate of title, is amended to read as
6 follows:

7 (C) The certificate of origin shall be on a form to be
8 prescribed by the ~~Director~~ Secretary of the Department of Finance and
9 Administration.

10
11 SECTION 4448. Arkansas Code § 27-14-709 is amended to read as follows:
12 27-14-709. Half-year license.

13 Notwithstanding any provision of law to the contrary, any motor vehicle
14 for which the annual registration and licensing fee is one hundred dollars
15 (\$100) or more, for any twelve-month licensing period, may be licensed for
16 the first six (6) months of the annual licensing period, upon payment of one-
17 half ($\frac{1}{2}$) of the annual registration and licensing fee, plus an additional fee
18 of five dollars (\$5.00) to defray the administrative cost of issuing the
19 half-year license, under such regulations as the ~~Director~~ Secretary of the
20 Department of Finance and Administration may promulgate.

21
22 SECTION 4449. Arkansas Code § 27-14-906(a)-(d), concerning dealer and
23 lienholder applications for registration and title certificates, are amended
24 to read as follows:

25 (a) The ~~Director~~ Secretary of the Department of Finance and
26 Administration may permit lienholders and motor vehicle dealers to make
27 applications for registration and certificates of title and to furnish them
28 to the Office of Motor Vehicle on behalf of the purchaser of a new or used
29 motor vehicle.

30 (b) The ~~director~~ secretary shall promulgate reasonable rules to be
31 complied with by motor vehicle dealers and lienholders in making application
32 for registration and certificates of title on behalf of purchasers of new or
33 used motor vehicles and may, if the ~~director~~ secretary deems necessary,
34 require the dealer or lienholder to post bond to ensure faithful compliance
35 with the rules.

36 (c)(1) Any motor vehicle dealer or lienholder who has been authorized

1 by the ~~director~~ secretary to prepare applications for registration and
2 certificates of title with respect to new or used motor vehicles shall
3 transmit the applications to the ~~director~~ secretary and shall attach thereto
4 a copy of any conditional sales contract, conditional lease, chattel
5 mortgage, or other lien or encumbrance or title retention instrument upon the
6 motor vehicle.

7 (2) Upon receipt of the documents under subdivision (c)(1) of
8 this section, the ~~director~~ secretary shall file a lien and encumbrance, as
9 provided in § 27-14-801 et seq., which from the date of filing shall be
10 notice of the lien or encumbrance.

11 (d) On issuing the registration and certificate of title, the ~~director~~
12 secretary shall mail the registration to the owner and the title to the
13 lienholder, or to the owner if no lien exists.

14

15 SECTION 4450. Arkansas Code § 27-14-907(c), concerning transfer of
16 title by operation of law, is amended to read as follows:

17 (c) The ~~Director~~ Secretary of the Department of Finance and
18 Administration shall have the power to adopt rules to establish what
19 documents or evidence are required to verify that a lien or encumbrance
20 holder or his or her assignee has complied with this section.

21

22 SECTION 4451. Arkansas Code § 27-14-914(a)(1), concerning the transfer
23 of license plates and registration from one vehicle to another, is amended to
24 read as follows:

25 (a)(1) When the owner of any motor vehicle, excepting Class One trucks
26 and passenger automobiles other than buses, registered and licensed in this
27 state, shall sell or transfer the motor vehicle or when the motor vehicle has
28 been destroyed so as to be unfit for repair or further use, and the owner
29 shall replace the vehicle with another motor vehicle requiring payment of the
30 same registration or license fee, the owner may, at his or her election,
31 transfer the license plate and registration of the vehicle being so disposed
32 of to the vehicle acquired as a replacement thereof, upon payment to the
33 ~~Director~~ Secretary of the Department of Finance and Administration of a
34 transfer fee of ten dollars (\$10.00) per vehicle.

35

36 SECTION 4452. Arkansas Code § 27-14-914(b), concerning the transfer of

1 license plates and registration from one vehicle to another, is amended to
2 read as follows:

3 (b) The ~~director~~ secretary shall provide suitable forms to enable
4 owners electing to do so to transfer license plate or plates and registration
5 and make payment of the fee provided in this section and shall be empowered
6 to make reasonable rules and regulations governing these transfers.

7

8 SECTION 4453. Arkansas Code § 27-14-915(a) and (b), concerning the
9 transfer of a license on vehicles for hire, are amended to read as follows:

10 (a) When the owner of a vehicle licensed to operate for hire takes the
11 vehicle out of the for-hire service, the ~~Director~~ Secretary of the Department
12 of Finance and Administration, upon the payment of a transfer charge of two
13 dollars (\$2.00), will cause the license for the vehicle to be transferred to
14 another vehicle for like use to be registered by the owner.

15 (b) If the fee for registration and licensing the vehicle under
16 registration is greater than that represented by the license to be
17 transferred, then the ~~director~~ secretary shall, in addition, collect an
18 amount equal to the excess payable for the vehicle under registration.

19

20 SECTION 4454. Arkansas Code § 27-14-915(d)(1), concerning the transfer
21 of a license on vehicles for hire, is amended to read as follows:

22 (d)(1) Upon the transfer of a license, the ~~director~~ secretary will
23 cause to be cancelled all registrations on the vehicle taken out of for-hire
24 service.

25

26 SECTION 4455. Arkansas Code § 27-14-1002(a)(6), concerning the
27 definition of "tab or decal" under the Permanent Automobile Licensing Act of
28 1967, is amended to read as follows:

29 (6) "Tab or decal" is an attachable material of such form and
30 substance as the ~~Director~~ Secretary of the Department of Finance and
31 Administration may prescribe by rule or regulation.

32

33 SECTION 4456. Arkansas Code § 27-14-1004(a), concerning penalties
34 under the Permanent Automobile Licensing Act of 1967, is amended to read as
35 follows:

36 (a) Any person failing to comply with the provisions of this

1 subchapter by operating a passenger motor vehicle, as set forth and described
2 in § 27-14-1002(a), or by operating a Class One truck, as set forth and
3 described in § 27-14-1002(a), which is subject to registration under the laws
4 of this state on any street, road, or highway in the State of Arkansas
5 without having first registered the motor vehicle with the Office of Motor
6 Vehicle, in the manner and within the period required by law or regulations
7 of the ~~Director~~ Secretary of the Department of Finance and Administration,
8 shall be required to pay a penalty of three dollars (\$3.00) for each ten (10)
9 days, or fraction thereof, for which he or she fails properly to register the
10 vehicle until the penalty reaches the same amount as the annual license fee
11 of the vehicle to be registered.

12

13 SECTION 4457. Arkansas Code § 27-14-1005(a), concerning failure to
14 affix or display license plates, is amended to read as follows:

15 (a) The failure of the motor vehicle owner to affix and display the
16 permanent license plates, the tab or decal, or the registration card, in the
17 places designated by the ~~Director~~ Secretary of the Department of Finance and
18 Administration, shall be a misdemeanor subject to the penalties provided by §
19 27-14-301.

20

21 SECTION 4458. Arkansas Code § 27-14-1006(a), concerning the authority
22 to issue a permanent license plate subject to replacement, is amended to read
23 as follows:

24 (a) The ~~Director~~ Secretary of the Department of Finance and
25 Administration is authorized to issue to the owner of a vehicle subject to
26 this subchapter a permanent license plate subject to replacement at the
27 request of the owner because of theft, loss, wear, or mutilation, or at the
28 discretion of either the Director of the ~~Department~~ Division of Arkansas State
29 Police or the ~~Director~~ Secretary of the Department of Finance and
30 Administration.

31

32 SECTION 4459. Arkansas Code § 27-14-1007 is amended to read as
33 follows:

34 27-14-1007. Issuance of license plate.

35 Upon registration, the owner of every vehicle of a type subject to the
36 provisions of this subchapter shall receive a permanent license plate issued

1 by the ~~Director~~ Secretary of the Department of Finance and Administration
2 upon the payment of the fees required by law.

3
4 SECTION 4460. Arkansas Code § 27-14-1008(a)(1), concerning the
5 issuance of permanent reflectorized license plates, is amended to read as
6 follows:

7 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
8 Administration is authorized to issue permanent reflectorized license plates
9 in such form as he or she shall prescribe.

10
11 SECTION 4461. Arkansas Code § 27-14-1008(a)(3), concerning the
12 issuance of permanent reflectorized license plates, is amended to read as
13 follows:

14 (3) Each reflectorized license plate so issued by the ~~director~~
15 secretary shall have imprinted thereon a multicolor reflectorized graphic
16 design or logo in such a manner and of such design as he or she shall
17 prescribe which will promote tourism and improve public relations inside and
18 outside the State of Arkansas.

19
20 SECTION 4462. Arkansas Code § 27-14-1008(c), concerning the issuance
21 of permanent reflectorized license plates, is amended to read as follows:

22 (c) All license plates that have been issued prior to the enactment of
23 this section shall be replaced by the ~~director~~ secretary with license plates
24 that shall conform to this subchapter and be attached to motor vehicles
25 during a replacement or recycle period beginning not earlier than January 1,
26 1980, nor later than January 31, 1981.

27
28 SECTION 4463. Arkansas Code § 27-14-1009(a)(1), concerning the
29 issuance of specialized license plates, is amended to read as follows:

30 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
31 Administration shall provide for and issue a special personalized license
32 plate for passenger motor vehicles.

33
34 SECTION 4464. Arkansas Code § 27-14-1009(a)(3)(B), concerning the
35 issuance of specialized license plates, is amended to read as follows:

36 (B) The ~~director~~ secretary, in his or her discretion, may

1 limit the number of characters or the context in which they appear on the
2 license plate.

3

4 SECTION 4465. Arkansas Code § 27-14-1009(d), concerning the issuance
5 of specialized license plates, is amended to read as follows:

6 (d) The ~~director~~ secretary may adopt regulations concerning the
7 issuance of a special personalized license plate.

8

9 SECTION 4466. Arkansas Code § 27-14-1010(a), concerning a registration
10 certificate for a motor vehicle, is amended to read as follows:

11 (a) The ~~Director~~ Secretary of the Department of Finance and
12 Administration shall issue to each owner of a motor vehicle subject to this
13 subchapter a registration certificate which must be kept in the motor vehicle
14 in the place prescribed by the ~~director~~ secretary.

15

16 SECTION 4467. Arkansas Code § 27-14-1011 is amended to read as
17 follows:

18 27-14-1011. Registration on monthly-series basis – Renewal periods.

19 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
20 Administration shall establish a system of registration on a monthly-series
21 basis to distribute the work of registering motor vehicles as uniformly as
22 practicable throughout the twelve (12) months of the calendar year.

23 (2) The ~~director~~ secretary may set the number of renewal periods
24 within the month from one (1) each month to one (1) each day of the month
25 depending on which system is most economical and best accommodates the
26 public.

27 (b) If the ~~director~~ secretary elects to use monthly renewal periods,
28 when a person applies for the registration of a vehicle and the issuance of a
29 permanent license plate, the decals issued by the ~~director~~ secretary for
30 attachment to the permanent license plates to evidence the registration
31 period shall be decals for the current month in which application is made for
32 registration, regardless of the day of the month on which application is
33 made.

34 (c) The ~~director~~ secretary shall, upon request, assign to any owner of
35 two (2) or more vehicles the same registration period.

36 (d) Registration shall be valid for one (1) year from the date thereof

1 and shall continue from year to year thereafter as long as renewed each year
2 within the time required by law.

3 (e) The ~~director~~ secretary shall establish a system to allow owners to
4 renew their motor vehicle registrations by facsimile machine and to charge
5 their fees to credit cards. The ~~director~~ secretary shall obtain a number of
6 facsimile machines and publish the telephone numbers of these machines and
7 make agreements with credit card companies so as to best accommodate the
8 public.

9

10 SECTION 4468. Arkansas Code § 27-14-1012(a)(1), concerning
11 applications for registrations or renewals, is amended to read as follows:

12 (a)(1) An applicant may apply, in person or by mail, for the issuance
13 of permanent license plates to the revenue office in the county where he or
14 she resides or to the ~~Director~~ Secretary of the Department of Finance and
15 Administration.

16

17 SECTION 4469. Arkansas Code § 27-14-1012(a)(2)(A), concerning
18 applications for registrations or renewals, is amended to read as follows:

19 (A) Transmitting the required documents and the
20 registration fee by mail to the applicant's local revenue office or to the
21 ~~director~~ secretary;

22

23 SECTION 4470. Arkansas Code § 27-14-1012(b)(1), concerning
24 applications for registrations or renewals, is amended to read as follows:

25 (b)(1) Not less than thirty (30) days before the expiration of the
26 license, the ~~director~~ secretary shall notify the owner of a registered motor
27 vehicle subject to this subchapter.

28

29 SECTION 4471. Arkansas Code § 27-14-1012(b)(2)(B), concerning
30 applications for registrations or renewals, is amended to read as follows:

31 (B) Email to the email address provided to the ~~director~~
32 secretary by the motor vehicle owner in connection with a consent to receive
33 the annual motor vehicle registration renewal notice by email.

34

35 SECTION 4472. Arkansas Code § 27-14-1012(d), concerning applications
36 for registrations or renewals, is amended to read as follows:

1 (d) The ~~director~~ secretary is authorized to impose a first class
2 postage fee for handling the issuance of all new licenses or renewals by mail
3 and to impose an additional fee to recover any credit card fees charged by
4 credit card companies.

5
6 SECTION 4473. The introductory language of Arkansas Code § 27-14-1013,
7 concerning the renewals of registration, is amended to read as follows:

8 The owner of any permanent license plate issued by the ~~Director~~
9 Secretary of the Department of Finance and Administration may renew his or
10 her registration:

11
12 SECTION 4474. Arkansas Code § 27-14-1013(1), concerning the renewals
13 of registration, is amended to read as follows:

14 (1) In person or by mail at a county revenue office or with the
15 ~~director~~ secretary;

16
17 SECTION 4475. The introductory language of Arkansas Code § 27-14-
18 1014(a)(1), concerning application forms for renewals of registration, is
19 amended to read as follows:

20 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
21 Administration shall send application forms for all renewals of registration
22 under this subchapter by:

23
24 SECTION 4476. Arkansas Code § 27-14-1014(a)(1)(B), concerning
25 application forms for renewals of registration, is amended to read as
26 follows:

27 (B) Email sent to the address provided to the ~~director~~
28 secretary by the motor vehicle owner in connection with a consent to receive
29 the annual motor vehicle registration renewal notice and application forms by
30 email.

31
32 SECTION 4477. Arkansas Code § 27-14-1014(a)(2), concerning application
33 forms for renewals of registration, is amended to read as follows:

34 (2) The ~~director~~ secretary shall not be required to go beyond
35 the face of the last registration.

36

1 SECTION 4478. Arkansas Code § 27-14-1015(b)(1), concerning the payment
2 of personal property taxes and the listing for assessment required, is
3 amended to read as follows:

4 (b)(1) The county tax assessor and county tax collector shall provide
5 to the ~~Director~~ Secretary of the Department of Finance and Administration
6 updates to the state vehicle registration system to indicate whether or not
7 the owner of each vehicle registered in the county has assessed the vehicle
8 and owes no delinquent personal property taxes. ~~The updates shall be~~
9 ~~required not later than January 1, 1999.~~

10
11 SECTION 4479. Arkansas Code § 27-14-1015(b)(3), concerning the payment
12 of personal property taxes and the listing for assessment required, is
13 amended to read as follows:

14 (3) The ~~director~~ secretary shall provide free of charge to each
15 county assessor and to each county collector in this state, such additional
16 computer hardware, software, and telecommunications links as he or she deems
17 are essential to allow the county assessors and collectors to electronically
18 forward to the Department of Finance and Administration updates to the
19 vehicle registration system for the purposes of adding, changing, or removing
20 information identifying vehicles which have been assessed within the time
21 frame required by law, and vehicles for which the owners have paid personal
22 property taxes within the time frame required by law.

23
24 SECTION 4480. Arkansas Code § 27-14-1015(c), concerning the payment of
25 personal property taxes and the listing for assessment required, is amended
26 to read as follows:

27 (c) There is hereby levied a new fee of two dollars and fifty cents
28 (\$2.50) for the sale of each annual license plate validation decal for a
29 motor vehicle. This new fee shall be collected by the ~~director~~ secretary at
30 the same time the vehicle registration fees imposed by § 27-14-601 are
31 collected. However, this new decal fee shall be accounted for separately from
32 the registration fee. The amount shall be mandatory and is collected for the
33 purpose of extending to vehicle owners the additional services and
34 conveniences of the options to renew vehicle registrations by telephone,
35 electronically, by mail, or in person without requiring applicants to submit
36 to the ~~director~~ secretary proof of assessment and payment of personal

1 property taxes.

2

3 SECTION 4481. Arkansas Code § 27-14-1015(d), concerning the payment of
4 personal property taxes and the listing for assessment required, is amended
5 to read as follows:

6 (d)(1) One dollar and fifty cents (\$1.50) of the amount collected by
7 the ~~director~~ secretary pursuant to subsection (c) of this section for each
8 annual license plate validation decal shall not be deposited in the State
9 Treasury but shall be remitted to the Arkansas Development Finance Authority.

10 (2) One dollar (\$1.00) of the amount collected by the ~~director~~
11 secretary pursuant to subsection (c) of this section for each annual license
12 plate validation decal shall be deposited into the State Treasury as direct
13 revenues to the State Central Services Fund, there to be used by the Revenue
14 Division of the Department of Finance and Administration in supporting those
15 activities and programs which will facilitate extending to vehicle owners the
16 additional services and conveniences of the options to renew vehicle
17 registrations by telephone, electronically, by mail, or in person without
18 requiring applicants to submit to the ~~director~~ secretary proof of assessment
19 and payment of personal property taxes or proof of automobile liability
20 insurance coverage.

21 (3) All amounts derived from the new fee imposed by subsection
22 (c) of this section for the sale of annual license plate validation decals,
23 whether held by the ~~director~~ secretary or the authority, which are to be
24 remitted to the authority shall be cash funds not subject to appropriation
25 and shall be used and applied by the authority only as provided in § 22-3-
26 1225. The fees charged for the annual license plate validation decal and paid
27 to the authority pursuant to subdivision (d)(1) of this section shall not be
28 reduced or otherwise impaired during the time that the fees are pledged by
29 the authority to the repayment of any of the authority's bonds issued in
30 accordance with § 22-3-1225.

31

32 SECTION 4482. Arkansas Code § 27-14-1016 is amended to read as
33 follows:

34 27-14-1016. Other information required.

35 The ~~Director~~ Secretary of the Department of Finance and Administration
36 may require such other information of applicants as he or she deems necessary

1 for the proper licensing of motor vehicles and the proper maintenance of a
2 motor vehicle register.

3

4 SECTION 4483. Arkansas Code § 27-14-1018 is amended to read as
5 follows:

6 27-14-1018. Issuance of annual tab or decal.

7 (a) In conjunction with the permanent license plate for a motor
8 vehicle other than a commercial motor vehicle registered with the
9 International Registration Plan, the ~~Director~~ Secretary of the Department of
10 Finance and Administration shall issue a tab or decal annually or, when
11 appropriate, to each qualified applicant as evidence of the annual payment of
12 license fees.

13 (b) A motor vehicle owner shall affix and display the tab or decal in
14 such place as the ~~director~~ secretary shall designate.

15

16 SECTION 4484. Arkansas Code § 27-14-1019 is amended to read as
17 follows:

18 27-14-1019. Changes of address.

19 (a) Every owner of a motor vehicle subject to this subchapter shall
20 report to the ~~Director~~ Secretary of the Department of Finance and
21 Administration any change of address from that listed when the vehicle was
22 registered.

23 (b) The willful failure or neglect of an owner to report the change of
24 address shall be a misdemeanor and shall subject the owner to the penalties
25 provided by § 27-14-301 and shall relieve the ~~director~~ secretary of any
26 obligation of notifying the owner of expiration of his or her motor vehicle
27 license and registration.

28

29 SECTION 4485. Arkansas Code § 27-14-1020 is amended to read as
30 follows:

31 27-14-1020. Rules and regulations.

32 The ~~Director~~ Secretary of the Department of Finance and Administration
33 shall promulgate such reasonable rules and regulations and prescribe such
34 forms as are necessary for the proper enforcement of this subchapter.

35

36 SECTION 4486. The introductory language of Arkansas Code § 27-14-

1 1021(a), concerning the annual notification of requirements, is amended to
2 read as follows:

3 (a) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall send to each vehicle owner in this state the following
5 information:

6
7 SECTION 4487. The introductory language of Arkansas Code § 27-14-
8 1021(b), concerning the annual notification of requirements, is amended to
9 read as follows:

10 (b) The ~~director~~ secretary may comply with the requirements set forth
11 in subsection (a) of this section by including the information in the annual
12 vehicle registration renewal notice sent to each vehicle owner by:

13
14 SECTION 4488. Arkansas Code § 27-14-1021(c), concerning the annual
15 notification of requirements, is amended to read as follows:

16 (c) The ~~director~~ secretary shall also cause to be displayed, in
17 conspicuous fashion, at each revenue office in this state, the information
18 set forth in subsection (a) of this section.

19
20 SECTION 4489. Arkansas Code § 27-14-1101(a), concerning the authority
21 to issue special personalized prestige license plates for passenger
22 automobiles and motorcycles, is amended to read as follows:

23 (a) The ~~Director~~ Secretary of the Department of Finance and
24 Administration shall provide for and issue special personalized prestige
25 license plates for passenger automobiles and motorcycles.

26
27 SECTION 4490. Arkansas Code § 27-14-1104 is amended to read as
28 follows:

29 27-14-1104. Rules and regulations.

30 (a) The ~~Director~~ Secretary of the Department of Finance and
31 Administration is authorized to promulgate rules and regulations regarding
32 the maximum and minimum number of letters, numbers, or symbols on special
33 personalized prestige license plates issued under this subchapter.

34 (b) The ~~director~~ secretary may also promulgate such other rules and
35 regulations as shall be deemed necessary or desirable for effectively
36 carrying out the intent and purposes of this subchapter and the laws of this

1 state relative to the regulation and licensing of motor vehicles.

2

3 SECTION 4491. Arkansas Code § 27-14-1202(a)(1), concerning the
4 definition of "decal" under the Permanent Trailer Licensing Act of 1979, is
5 amended to read as follows:

6 (1) "Decal" means an attachable material of such form and
7 substance as the ~~Director~~ Secretary of the Department of Finance and
8 Administration may prescribe by rule or regulation;

9

10 SECTION 4492. Arkansas Code § 27-14-1204(b), concerning penalties
11 under the Permanent Trailer Licensing Act of 1979, is amended to read as
12 follows:

13 (b) The failure of the trailer owner to affix and display the
14 permanent license plates, the tab or decal, or the registration card, in the
15 places designated by the ~~Director~~ Secretary of the Department of Finance and
16 Administration, shall be a misdemeanor subject to the penalties provided by §
17 27-14-301.

18

19 SECTION 4493. Arkansas Code § 27-14-1206 is amended to read as
20 follows:

21 27-14-1206. Time and place for registration or renewal.

22 (a) An applicant may apply, in person or by mail, for the issuance of
23 permanent license plates to the revenue collector in the county where he or
24 she resides or to the ~~Director~~ Secretary of the Department of Finance and
25 Administration.

26 (b) Thirty (30) days before the expiration of a license ~~issued prior~~
27 ~~to January 1, 2002~~, the ~~director~~ secretary shall notify the owner of a
28 registered trailer subject to this subchapter at the last address of the
29 owner of the trailer as the owner's name and address appear on the records of
30 the Office of Motor Vehicle, but the ~~director~~ secretary is not required to go
31 beyond the face of the last registration statement.

32 (c)(1) A proper application for registration or renewal of a
33 registration ~~issued prior to January 1, 2002~~, by mail must be postmarked not
34 later than fifteen (15) days before the date for renewal in order to allow
35 time for processing.

36 (2) The ~~director~~ secretary is authorized to impose a first class

1 postage fee for handling the issuance of all new licenses or renewals by
2 mail.

3

4 SECTION 4494. Arkansas Code § 27-14-1207 is amended to read as
5 follows:

6 27-14-1207. Information required of applicant.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 may require such other information of applicants as he or she deems necessary
9 for the proper licensing of trailers and the proper maintenance of a trailer
10 register.

11

12 SECTION 4495. Arkansas Code § 27-14-1209(a), concerning the issuance
13 of a registration certificate, is amended to read as follows:

14 (a) The ~~Director~~ Secretary of the Department of Finance and
15 Administration shall issue to each owner of a trailer subject to this
16 subchapter a registration certificate, which must be kept in the place
17 prescribed by the ~~director~~ secretary.

18

19 SECTION 4496. Arkansas Code § 27-14-1210(a), concerning the fee under
20 the Permanent Trailer Licensing Act of 1979, is amended to read as follows:

21 (a) Upon registration, the owner of every trailer of a type subject to
22 the provisions of this subchapter shall receive a permanent license plate
23 issued by the ~~Director~~ Secretary of the Department of Finance and
24 Administration upon the payment of the fee set forth in § 27-14-601.

25

26 SECTION 4497. Arkansas Code § 27-14-1211(a), concerning the issuance
27 of a permanent plate under the Permanent Trailer Licensing Act of 1979, is
28 amended to read as follows:

29 (a) The ~~Director~~ Secretary of the Department of Finance and
30 Administration is authorized to issue to the owner of a trailer subject to
31 this subchapter a permanent license plate, subject to replacement, upon
32 payment of the fee set forth in § 27-14-601.

33

34 SECTION 4498. Arkansas Code § 27-14-1212(a), concerning the issuance
35 of reflectorized plates under the Permanent Trailer Licensing Act of 1979, is
36 amended to read as follows:

1 (a) The ~~Director~~ Secretary of the Department of Finance and
2 Administration is authorized to issue permanent reflectorized license plates
3 in such form as he or she shall prescribe.
4

5 SECTION 4499. Arkansas Code § 27-14-1213 is amended to read as
6 follows:

7 27-14-1213. Distribution of renewal applications.

8 (a) The ~~Director~~ Secretary of the Department of Finance and
9 Administration shall mail application forms for all renewals of registration
10 under this subchapter issued prior to January 1, 2002, to the last address of
11 the owner of the trailer as the owner's name and address appear on the
12 records of the Office of Motor Vehicle.

13 (b) The ~~director~~ secretary shall not be required to go beyond the face
14 of the last registration, and the failure of an owner to receive notice of
15 expiration of his or her trailer license shall not be construed as an
16 extenuating circumstance for the failure of a trailer owner to renew his or
17 her license on time.
18

19 SECTION 4500. Arkansas Code § 27-14-1214(a), concerning renewal of
20 registration under Permanent Trailer Licensing Act of 1979, is amended to
21 read as follows:

22 (a) The owner of any permanent license plate issued by the ~~Director~~
23 Secretary of the Department of Finance and Administration prior to January 1,
24 2002, may renew his or her registration, in person or by mail, at a county
25 revenue office or with the ~~director~~ secretary during any day from thirty (30)
26 days prior to the date on which his or her registration shall expire.
27

28 SECTION 4501. Arkansas Code § 27-14-1217(a), concerning the report of
29 a change of address, is amended to read as follows:

30 (a) Every owner of a trailer subject to this subchapter shall report
31 to the ~~Director~~ Secretary of the Department of Finance and Administration any
32 change of address from that listed when the trailer was registered.
33

34 SECTION 4502. Arkansas Code § 27-14-1217(b)(3), concerning the report
35 of a change of address, is amended to read as follows:

36 (3) Relieve the ~~director~~ secretary of any obligation of

1 notifying the owner of expiration of his or her trailer license and
2 registration.

3

4 SECTION 4503. Arkansas Code § 27-14-1218 is amended to read as
5 follows:

6 27-14-1218. Rules and regulations.

7 The ~~Director~~ Secretary of the Department of Finance and Administration
8 shall promulgate such reasonable rules and regulations and prescribe such
9 forms as are necessary for the proper enforcement of this subchapter.

10

11 SECTION 4504. Arkansas Code § 27-14-1303 is amended to read as
12 follows:

13 27-14-1303. Administration.

14 The ~~Director~~ Secretary of the Department of Finance and Administration
15 is authorized and directed to supply license plates to properly designate or
16 identify the various classes of vehicles covered in this subchapter and to
17 enforce this subchapter.

18

19 SECTION 4505. Arkansas Code § 27-14-1304(a)(1), concerning the rules
20 and regulations of the Department of Finance and Administration, is amended
21 to read as follows:

22 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
23 Administration shall promulgate rules and regulations and prescribe forms for
24 the proper enforcement of this subchapter.

25

26 SECTION 4506. Arkansas Code § 27-14-1304(b)(1), concerning the rules
27 and regulations of the Department of Finance and Administration, is amended
28 to read as follows:

29 (b)(1) A complete file of all rules, regulations, and forms shall be
30 kept in the office of the ~~director~~ secretary.

31

32 SECTION 4507. Arkansas Code § 27-14-1305(a), concerning the annual
33 report regarding the licensing of trucks and trailers, is amended to read as
34 follows:

35 (a) Annually, on or before December 31 of each year, the ~~Director~~
36 Secretary of the Department of Finance and Administration shall make a report

1 of his or her administration of this subchapter to the Governor.

2
3 SECTION 4508. Arkansas Code § 27-24-1425(a), concerning the special
4 license plate for the Arkansas State Chapter of the National Wild Turkey
5 Federation, Inc., is amended to read as follows:

6 (a) The ~~Director~~ Secretary of the Department of Finance and
7 Administration shall create and issue an Arkansas State Chapter of the
8 National Wild Turkey Federation, Inc. special license plate in the manner and
9 subject to the conditions provided for under this subchapter.

10
11 SECTION 4509. Arkansas Code § 27-14-1501(a), concerning the liability
12 insurance prerequisite to licensing, is amended to read as follows:

13 (a) No license shall be issued for any taxicab, automobile, or similar
14 vehicle used for hire, nor shall these vehicles be operated or used in and
15 upon the streets, roads, and highways of the State of Arkansas, within or
16 without the corporate limits of any city or village, for the purpose of
17 carrying passengers for hire unless there shall have been filed with the
18 ~~Director~~ Secretary of the Department of Finance and Administration a
19 liability contract of insurance, or certificates of insurance, issued to the
20 owner of the vehicle, which shall be substantially in the form of the
21 standard automobile liability insurance policy in customary use, to be
22 approved by the ~~director~~ secretary, and issued by an insurance company
23 licensed to do business in the State of Arkansas.

24
25 SECTION 4510. Arkansas Code § 27-14-1501(c)(2)(A), concerning the
26 liability insurance prerequisite to licensing, is amended to read as follows:

27 (2)(A) The bond or collateral shall be in the form approved by
28 the ~~director~~ secretary and shall be conditioned for the payment of property
29 damage and personal injuries and shall be in an amount no less than fifty
30 thousand dollars (\$50,000) for all claims for the operator's fleet, and
31 uninsured motorist coverage shall not be required of the operators.

32
33 SECTION 4511. Arkansas Code § 27-14-1501(e)(1), concerning the
34 liability insurance prerequisite to licensing, is amended to read as follows:

35 (e)(1) No policy of insurance may be cancelled by the licensee or by
36 the insurance carrier unless written notice of the cancellation shall have

1 been mailed to the ~~director~~ secretary.

2

3 SECTION 4512. Arkansas Code § 27-14-1603(d), concerning the
4 cancellation of title for a manufactured home or a mobile home, is amended to
5 read as follows:

6 (d) The ~~Director~~ Secretary of the Department of Finance and
7 Administration may promulgate rules to administer this section.

8

9 SECTION 4513. Arkansas Code § 27-14-1604(e), concerning the issuance
10 of a new title in the event of severance, is amended to read as follows:

11 (e) The ~~Director~~ Secretary of the Department of Finance and
12 Administration may promulgate rules to implement and administer this section.

13

14 SECTION 4514. Arkansas Code § 27-14-1701(d)(1), concerning the
15 operation of vehicles under special plates, is amended to read as follows:

16 (d)(1) The ~~Director~~ Secretary of the Department of Finance and
17 Administration shall provide the specifications, form, and color of the
18 special temporary preprinted paper tag and any correlating stickers that are
19 to be placed on the preprinted paper tag required under this section.

20

21 SECTION 4515. Arkansas Code § 27-14-1703(a)(1), concerning the
22 expiration of special plates, is amended to read as follows:

23 (a)(1) Every special plate, excluding temporary preprinted paper tags,
24 issued under this subchapter shall expire at 12:00 midnight on December 31 of
25 each year unless the ~~Director~~ Secretary of the Department of Finance and
26 Administration provides by rule a staggered method of annual expiration.

27

28 SECTION 4516. Arkansas Code § 27-14-1703(b), concerning the expiration
29 of special plates, is amended to read as follows:

30 (b) In lieu of providing a new special plate upon the expiration of
31 the special plate issued under this subchapter, the ~~director~~ secretary may by
32 rule provide for the issuance of permanent special plates that are renewed
33 using an alternate method.

34

35 SECTION 4517. The introductory language of Arkansas Code § 27-14-
36 1704(a), concerning dealer's extra license plates, is amended to read as

1 follows:

2 (a) Each dealer as defined in § 27-14-601(a)(6) shall furnish the
3 ~~Director~~ Secretary of the Department of Finance and Administration with a
4 list of each manager, sales manager, and salesperson authorized to operate a
5 motor vehicle to which a dealer's extra license plate issued to the dealer
6 has been or will be attached:

7

8 SECTION 4518. Arkansas Code § 27-14-1704(e)(1)(A), concerning dealer's
9 extra license plates, is amended to read as follows:

10 (e)(1)(A) In addition to any other penalty prescribed by this chapter,
11 the ~~director~~ secretary may suspend some or all dealer's extra license plates
12 issued to a dealer if the ~~director~~ secretary determines that the dealer or
13 any manager, sales manager, or salesperson of the dealer either misused a
14 dealer's extra license plate or allowed the use of a dealer's extra license
15 plate by a person who is not authorized by this section to use a dealer's
16 extra license plate.

17

18 SECTION 4519. The introductory language of Arkansas Code § 27-14-
19 1704(e)(1)(C), concerning dealer's extra license plates, is amended to read
20 as follows:

21 (C) The ~~director~~ secretary shall:

22

23 SECTION 4520. Arkansas Code § 27-14-1704(e)(2)(A) and (B), concerning
24 dealer's extra license plates, are amended to read as follows:

25 (2)(A) Any dealer who desires a hearing on the suspension shall
26 notify the ~~director~~ secretary in writing within twenty (20) days after
27 receipt of the notice of suspension.

28 (B) A hearing officer appointed by the ~~director~~ secretary
29 shall schedule a hearing in an office of the Revenue Division of the
30 Department of Finance and Administration in the county of the dealer's
31 principal place of business, unless the ~~director~~ secretary and the dealer
32 agree to another location for the hearing or agree that the hearing shall be
33 held by telephone.

34

35 SECTION 4521. Arkansas Code § 27-14-1704(e)(3)(A)(ii), concerning
36 dealer's extra license plates, is amended to read as follows:

1 (ii) The dealer shall serve a copy of the petition
2 on the ~~director~~ secretary.

3
4 SECTION 4522. Arkansas Code § 27-14-1705(e), concerning temporary
5 preprinted paper buyer's tags, is amended to read as follows:

6 (e) The ~~Director~~ Secretary of the Department of Finance and
7 Administration shall provide the specifications, form, and color of the
8 temporary preprinted paper buyer's tag.

9
10 SECTION 4523. Arkansas Code § 27-14-1705(f)(1)(A), concerning
11 temporary preprinted paper buyer's tags, is amended to read as follows:

12 (f)(1)(A) The buyer shall be responsible for paying to the ~~director~~
13 secretary a fee to be set by the ~~director~~ secretary, which shall not exceed
14 five dollars and fifty cents (\$5.50), for each temporary preprinted paper
15 buyer's tag and any correlating sticker the buyer receives.

16
17 SECTION 4524. Arkansas Code § 27-14-1705(f)(3)(A), concerning
18 temporary preprinted paper buyer's tags, is amended to read as follows:

19 (3)(A) Except as provided in subdivision (f)(3)(B) of this
20 section, all fees collected by the ~~director~~ secretary under this section
21 shall be deposited into the State Treasury, and the Treasurer of State shall
22 credit them as general revenues to the General Revenue Fund Account of the
23 State Apportionment Fund.

24
25 SECTION 4525. The introductory language of Arkansas Code § 27-14-
26 1705(h)(1)(A), concerning temporary preprinted paper buyer's tags, is amended
27 to read as follows:

28 (h)(1)(A) In addition to any other penalty prescribed by this section,
29 the ~~director~~ secretary may suspend or terminate a dealer's authority to issue
30 temporary preprinted paper buyer's tags if the ~~director~~ secretary determines
31 that the dealer, manager, salesperson, or employee of the dealer:

32
33 SECTION 4526. Arkansas Code § 27-14-1705(h)(1)(B), concerning
34 temporary preprinted paper buyer's tags, is amended to read as follows:

35 (B) In addition to any other penalty prescribed by this
36 section, if the ~~director~~ secretary determines that the dealer, or a manager,

1 salesperson, or employee of the dealer, has violated this subsection, the
2 ~~director~~ secretary may impose a penalty equal to ten dollars (\$10.00) for
3 each inappropriately issued temporary preprinted paper buyer's tag.

4
5 SECTION 4527. The introductory language of Arkansas Code § 27-14-
6 1705(h)(2), concerning temporary preprinted paper buyer's tags, is amended to
7 read as follows:

8 (2) The ~~director~~ secretary shall:

9
10 SECTION 4528. Arkansas Code § 27-14-1705(h)(5)(A) and (B), concerning
11 temporary preprinted paper buyer's tags, are amended to read as follows:

12 (5)(A) A dealer who desires a hearing on the imposition of a
13 penalty, or of the suspension or termination of the dealer's authority to
14 issue temporary tags under this section, shall notify the ~~director~~ secretary
15 in writing within twenty (20) days after receipt of the notice of imposition
16 of a penalty, or of the suspension or termination.

17 (B) A hearing officer appointed by the ~~director~~ secretary
18 shall schedule a hearing in an office of the Revenue Division of the
19 Department of Finance and Administration in the county of the dealer's
20 principal place of business, unless the ~~director~~ secretary and the dealer
21 agree to another location for the hearing or agree that the hearing shall be
22 held by telephone.

23
24 SECTION 4529. Arkansas Code § 27-14-1705(h)(6)(B), concerning
25 temporary preprinted paper buyer's tags, is amended to read as follows:

26 (B) The dealer shall serve a copy of the petition on the
27 ~~director~~ secretary.

28
29 SECTION 4530. Arkansas Code § 27-14-1706(c)(2), concerning vehicles
30 provided for purposes of demonstration or for repair customers, is amended to
31 read as follows:

32 (2)(A) The ~~Director~~ Secretary of the Department of Finance and
33 Administration shall provide the specifications, form, and color of the
34 information sheet to be used by dealers under this subsection.

35 (B) Information sheets retained by the dealer under this
36 subsection are subject to examination by the ~~director~~ secretary at any

1 reasonable time.

2

3 SECTION 4531. Arkansas Code § 27-14-1706(d)(3), concerning vehicles
4 provided for purposes of demonstration or for repair customers, is amended to
5 read as follows:

6 (3) The ~~director~~ secretary shall design the test drive or loaner
7 information sheet to be used by dealers under this subsection and shall make
8 this information sheet available at all state revenue offices and on the
9 website of the Department of Finance and Administration.

10

11 SECTION 4532. Arkansas Code § 27-14-1707 is amended to read as
12 follows:

13 27-14-1707. Authority to promulgate rules.

14 In addition to the authority provided in § 27-14-403, the ~~Director~~
15 Secretary of the Department of Finance and Administration may promulgate,
16 adopt, and enforce such rules as may be necessary to carry out this
17 subchapter.

18

19 SECTION 4533. Arkansas Code § 27-14-1804 is amended to read as
20 follows:

21 7-14-1804. Nonapplicable if regular plates used.

22 This subchapter shall not apply to any person, firm, or corporation
23 engaged in towing or driving motor vehicles on the public highways of this
24 state where the motor vehicles display bona fide license or dealer's license
25 plates issued by the ~~Director~~ Secretary of the Department of Finance and
26 Administration.

27

28 SECTION 4534. Arkansas Code § 27-14-1805(a), concerning the use of "IN
29 TRANSIT" placards, is amended to read as follows:

30 (a)(1) Motor vehicles and trailers in the course of delivery from a
31 manufacturer to a dealer, or from one dealer to another, may be operated on
32 the highways without license number plates being attached, if they display,
33 on the rear, a placard issued by the ~~Director~~ Secretary of the Department of
34 Finance and Administration, bearing the words "IN TRANSIT", the registration
35 number, the time and date the placard was issued, and the genuine signature
36 of the ~~director~~ secretary or his or her agent.

1 (2) The letters and figures shall be of such size and type to
2 meet the requirements of the ~~director~~ secretary.

3
4 SECTION 4535. Arkansas Code § 27-14-1805(b)(2), concerning the use of
5 "IN TRANSIT" placards, is amended to read as follows:

6 (2) The fee shall be collected by the ~~director~~ secretary before
7 issuance of the placard.

8
9 SECTION 4536. Arkansas Code § 27-14-1806(a)(1), concerning metal
10 transporter plates, is amended to read as follows:

11 (a)(1) Any person, firm, or corporation that is regularly engaged in
12 the business of driving or towing motor vehicles or trailers as defined in §
13 27-14-1805, upon the payment of a fee of thirty dollars (\$30.00), may be
14 issued an annual metal transporter plate by the ~~Director~~ Secretary of the
15 Department of Finance and Administration.

16
17 SECTION 4537. Arkansas Code § 27-14-1808 is amended to read as
18 follows:

19 27-14-1808. Rules and regulations.

20 The ~~Director~~ Secretary of the Department of Finance and Administration
21 is authorized to promulgate such rules and regulations as he or she deems
22 necessary for the proper enforcement of this subchapter.

23
24 SECTION 4538. Arkansas Code § 27-14-1904 is amended to read as
25 follows:

26 27-14-1904. Design of plates.

27 Manufacturers' master license plates shall be of such form and design
28 as prescribed by the ~~Director~~ Secretary of the Department of Finance and
29 Administration.

30
31 SECTION 4539. Arkansas Code § 27-14-1905 is amended to read as
32 follows:

33 27-14-1905. Rules and regulations.

34 The ~~Director~~ Secretary of the Department of Finance and Administration
35 is authorized to promulgate rules and regulations consistent with the
36 provisions of this subchapter.

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SECTION 4540. Arkansas Code § 27-14-2102 is amended to read as follows:

27-14-2102. Issuance authorized.

The ~~Director~~ Secretary of the Department of Finance and Administration is authorized to design and issue a drive-out tag for use in cases where automobile dealers in this state sell a motor vehicle to a nonresident who desires to immediately remove the vehicle to the state of his or her residence.

SECTION 4541. Arkansas Code § 27-14-2105 is amended to read as follows:

27-14-2105. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration is authorized to promulgate such rules and regulations as he or she deems necessary for the proper enforcement of this subchapter.

SECTION 4542. Arkansas Code § 27-14-2307 is amended to read as follows:

27-14-2307. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration shall promulgate necessary rules and regulations for the proper enforcement and administration of this subchapter.

SECTION 4543. Arkansas Code § 27-15-2402 is amended to read as follows:

27-15-2402. Applications.

All applications for special license plates under this subchapter shall be made to the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 4544. Arkansas Code § 27-15-2404 is amended to read as follows:

27-15-2404. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration shall make such rules and regulations as are necessary to ascertain

1 compliance with all state license laws relating to the use and operation of
2 motor vehicles before issuing the special plates under this subchapter in
3 lieu of the regular license plates.

4
5 SECTION 4545. Arkansas Code § 27-15-2405(a), concerning lists for
6 public information, is amended to read as follows:

7 (a) On or before March 1 of each year, the ~~Director~~ Secretary of the
8 Department of Finance and Administration shall furnish to the sheriff of each
9 county in the state an alphabetically arranged list of the names, addresses,
10 and amateur station call signs on the license plates of all persons to whom
11 license plates are issued under the provisions of this subchapter.

12
13 SECTION 4546. Arkansas Code § 27-15-4001(a), concerning buses
14 converted to or equipped as campers, is amended to read as follows:

15 (a) Any person in this state who owns a school bus or other bus which
16 has been converted to or equipped as a camper and is used solely as a camper
17 may register it and obtain special motor vehicle license plates for it upon
18 application to the ~~Director~~ Secretary of the Department of Finance and
19 Administration and upon the payment of an annual registration fee of thirteen
20 dollars (\$13.00).

21
22 SECTION 4547. Arkansas Code § 27-15-4002(b), concerning exemptions for
23 new vehicles loaned by dealers to school districts, is amended to read as
24 follows:

25 (b) The ~~Director~~ Secretary of the Department of Finance and
26 Administration shall issue, without charge to the school district, the
27 appropriate motor vehicle license plates for the vehicle.

28
29 SECTION 4548. Arkansas Code § 27-15-4901 is amended to read as
30 follows:

31 27-15-4901. In God We Trust license plate authorized.

32 The ~~Director~~ Secretary of the Department of Finance and Administration
33 shall issue a special In God We Trust motor vehicle license plate in the
34 manner and subject to the conditions prescribed in this subchapter.

35
36 SECTION 4549. The introductory language of Arkansas Code § 27-15-

1 4902(b)(1), concerning the design of the special In God We Trust motor
2 vehicle license plate, is amended to read as follows:

3 (b)(1) Before the ~~Director~~ Secretary of the Department of Finance and
4 Administration creates and issues a special license plate under this
5 subchapter, one (1) of the following must occur:

6

7 SECTION 4550. Arkansas Code § 27-15-4908 is amended to read as
8 follows:

9 27-15-4908. Rules and regulations.

10 The ~~Director~~ Secretary of the Department of Finance and Administration
11 shall promulgate reasonable rules and regulations and prescribe forms as the
12 ~~director~~ secretary determines to be necessary for effectively and efficiently
13 carrying out the intent and purposes of this subchapter.

14

15 SECTION 4551. Arkansas Code § 27-15-5101 is amended to read as
16 follows:

17 27-15-5101. Arkansas State Golf Association license plate authorized.

18 The ~~Director~~ Secretary of the Department of Finance and Administration
19 shall provide for and issue Arkansas State Golf Association special license
20 plates in the manner and subject to the conditions under this subchapter.

21

22 SECTION 4552. Arkansas Code § 27-15-5102(a)(2) and (3), concerning the
23 design of numbered plates for the Arkansas State Golf Association, are
24 amended to read as follows:

25 (2) The design shall be submitted to the ~~Director~~ Secretary of
26 the Department of Finance and Administration for design approval under rules
27 of the ~~director~~ secretary.

28

29 (3) The association may periodically submit a newly designed
30 license plate for approval and issuance by the ~~director~~ secretary with not
31 more than one (1) new license plate design issued per calendar year.

31

32 SECTION 4553. Arkansas Code § 27-15-5102(b)(1), concerning the design
33 of numbered plates for the Arkansas State Golf Association, is amended to
34 read as follows:

35 (b)(1) Upon approval of the design by the ~~director~~ secretary, the
36 association shall remit to the Department of Finance and Administration a fee

1 in the amount of six thousand dollars (\$6,000) to cover the cost of the
2 initial order of each newly designed license plate.

3
4 SECTION 4554. Arkansas Code § 27-15-5102(c), concerning the design of
5 numbered plates for the Arkansas State Golf Association, is amended to read
6 as follows:

7 (c) The ~~director~~ secretary shall promulgate reasonable rules and
8 regulations and prescribe any forms as the ~~director~~ secretary determines to
9 be necessary to carry out the intent and purposes of this subchapter.

10
11 SECTION 4555. Arkansas Code § 27-15-5201 is amended to read as
12 follows:

13 27-15-5201. Arkansas Fallen Firefighters' Memorial special license
14 plate authorized.

15 The ~~Director~~ Secretary of the Department of Finance and Administration
16 shall provide for and issue Arkansas Fallen Firefighters' Memorial special
17 license plates for motor vehicles in the manner provided in this subchapter.

18
19 SECTION 4556. Arkansas Code § 27-15-5202(a)(2) and (3), concerning the
20 special motor vehicle license plates designed by the Arkansas Fallen
21 Firefighters' Memorial Board, are amended to read as follows:

22 (2) The design shall be submitted for design approval by
23 the ~~Director~~ Secretary of the Department of Finance and Administration under
24 rules and regulations of the ~~director~~ secretary.

25 (3) The board may periodically submit a newly designed license
26 plate for approval and issue by the ~~director~~ secretary with not more than one
27 (1) new license plate design issued per calendar year.

28
29 SECTION 4557. Arkansas Code § 27-15-5202(b)(1), concerning the special
30 motor vehicle license plates designed by the Arkansas Fallen Firefighters'
31 Memorial Board, is amended to read as follows:

32 (b)(1) Upon approval of the design by the ~~director~~ secretary, the
33 board shall remit to the Department of Finance and Administration a fee of
34 six thousand dollars (\$6,000) to cover the cost of the initial order of each
35 newly designed license plate.

36

1 SECTION 4558. Arkansas Code § 27-15-5202(c), concerning the special
2 motor vehicle license plates designed by the Arkansas Fallen Firefighters'
3 Memorial Board, is amended to read as follows:

4 (c) The ~~director~~ secretary shall promulgate reasonable rules and
5 regulations and prescribe any forms as he or she determines to be necessary
6 to carry out the intent and purposes of this subchapter.

7
8 SECTION 4559. Arkansas Code § 27-16-401(1), concerning the definition
9 of "commissioner" under the laws concerning the Office of Driver Services, is
10 amended to read as follows:

11 (1) "Commissioner" means the ~~Director~~ Secretary of the
12 Department of Finance and Administration acting in his or her capacity as
13 Commissioner of Motor Vehicles of this state;

14
15 SECTION 4560. Arkansas Code § 27-16-509(c), concerning reciprocal
16 agreements, is amended to read as follows:

17 (c)(1) The ~~Director~~ Secretary of the Department of Finance and
18 Administration may negotiate and consummate a reciprocal agreement as
19 provided under this section.

20 (2) If the ~~Director~~ Secretary of the Department of Finance and
21 Administration enters into a reciprocal agreement under this section, then he
22 or she shall exercise due regard for the advantage and convenience of
23 resident drivers and citizens of the State of Arkansas.

24 (3) The ~~Director~~ Secretary of the Department of Finance and
25 Administration shall only enter into a reciprocal agreement that extends
26 equal or greater privileges and exemptions to Arkansas motor vehicle drivers
27 as compared to the privileges and exemptions provided to the other entity's
28 motor vehicle drivers.

29
30 SECTION 4561. Arkansas Code § 27-16-509(d)(1), concerning reciprocal
31 agreements, is amended to read as follows:

32 (d)(1) The ~~Director~~ Secretary of the Department of Finance and
33 Administration shall enter into a reciprocal agreement under this section by
34 promulgating rules in compliance with the Arkansas Administrative Procedure
35 Act, § 25-15-201 et seq.

36

1 SECTION 4562. The introductory language of Arkansas Code § 27-16-
2 509(e)(1)(A), concerning reciprocal agreements, is amended to read as
3 follows:

4 (e)(1)(A) If the ~~Director~~ Secretary of the Department of Finance and
5 Administration enters into a reciprocal agreement under this section, then he
6 or she shall submit a report to the following:

7
8 SECTION 4563. Arkansas Code § 27-16-604(a)(9), concerning persons not
9 to be licensed, is amended to read as follows:

10 (9) Whose operation of a motor vehicle on the highways the
11 ~~Director~~ Secretary of the Department of Finance and Administration has good
12 cause to believe would be inimical to public safety or welfare;

13
14 SECTION 4564. Arkansas Code § 27-16-702(a)(2), concerning the
15 application of a minor for an instruction permit, learner's license, or
16 intermediate driver's license, is amended to read as follows:

17 (2) For purposes of this section, duly authorized agents of the
18 ~~Director~~ Secretary of the Department of Finance and Administration may
19 administer oaths without charge.

20
21 SECTION 4565. Arkansas Code § 27-16-704(b)(6), concerning the
22 examination of applicants, is amended to read as follows:

23 (6) The test of the applicant's eyesight shall be made on an
24 optical testing instrument approved under standards established by the
25 ~~Director~~ Secretary of the Department of Finance and Administration and the
26 ~~Department~~ Division of Arkansas State Police.

27
28 SECTION 4566. Arkansas Code § 27-16-705(a), concerning examiners for
29 the Department of Finance and Administration, is amended to read as follows:

30 (a) An examination as provided for in this subchapter shall be
31 conducted by the ~~Department~~ Division of Arkansas State Police or by the duly
32 authorized agents of the ~~Director~~ Secretary of the Department of Finance and
33 Administration.

34
35 SECTION 4567. The introductory language of Arkansas Code § 27-16-
36 801(a)(1)(A), concerning licenses, validity periods, contents, fees, and

1 disposition of moneys, is amended to read as follows:

2 (a)(1)(A) In a manner prescribed by the ~~Director~~ Secretary of the
3 Department of Finance and Administration, the Office of Driver Services shall
4 issue:

5
6 SECTION 4568. Arkansas Code § 27-16-801(a)(5), concerning licenses,
7 validity periods, contents, fees, and disposition of moneys, is amended to
8 read as follows:

9 (5) At the time of initial issuance or at the time of renewal of
10 a license, the distinguishing number assigned to the licensee for his or her
11 license shall be a nine-digit number assigned to the specific licensee by the
12 ~~director~~ secretary.

13
14 SECTION 4569. Arkansas Code § 27-16-801(d)(1), concerning licenses,
15 validity periods, contents, fees, and disposition of moneys, is amended to
16 read as follows:

17 (d)(1) Except as provided in subdivision (d)(2) of this section, all
18 license fees collected under subsection (a) of this section shall be cash
19 funds restricted in their use and shall be deposited into a bank selected by
20 the ~~Department~~ Division of Arkansas State Police to the credit of the
21 ~~Department~~ Division of Arkansas State Police Financing Fund.

22
23 SECTION 4570. Arkansas Code § 27-16-801(g)(2), concerning the
24 definition of "eligible inmate", is amended to read as follows:

25 (2) The fees collected under this subsection shall be remitted
26 to the State Treasury, there to be deposited as special revenues to the
27 credit of the ~~Department~~ Division of Arkansas State Police Fund, to be used
28 for the payment of health insurance premiums for uniformed employees of the
29 ~~Department~~ Division of Arkansas State Police.

30
31 SECTION 4571. Arkansas Code § 27-16-801(h)(1)(A)(i) and (ii),
32 concerning licenses, validity periods, contents, fees, and disposition of
33 moneys, are amended to read as follows:

34 (i) Being an inmate of the ~~Department~~ Division of
35 Correction and housed in a facility operated by the ~~Department~~ Division of
36 Correction; or

1 (ii) Being an inmate of the ~~Department~~ Division of
2 Community Correction and housed in a detention facility; and

3
4 SECTION 4572. Arkansas Code § 27-16-801(h)(1)(B), concerning the
5 definition of "eligible inmate", is amended to read as follows:

6 (B) "Eligible inmate" means a person who is within one
7 hundred eighty (180) days of release from custody by the ~~Department~~ Division
8 of Correction or the ~~Department~~ Division of Community Correction.

9
10 SECTION 4573. Arkansas Code § 27-16-801(h)(3), concerning licenses,
11 validity periods, contents, fees, and disposition of moneys, is amended to
12 read as follows:

13 (3) The ~~Department~~ Division of Correction and the ~~Department~~
14 Division of Community Correction shall identify eligible inmates to apply for
15 a replacement or renewal driver's license or identification card.

16
17 SECTION 4574. Arkansas Code § 27-16-811(d), concerning the address
18 confidentiality program and the exception to a disclosing a residence
19 address, is amended to read as follows:

20 (d) The ~~Director~~ Secretary of the Department of Finance and
21 Administration shall promulgate rules and forms to administer the address
22 confidentiality program under this section.

23
24 SECTION 4575. Arkansas Code § 27-16-901(a)(1)(A), concerning the
25 expiration and renewal of licenses, is amended to read as follows:

26 (a)(1)(A) Except for the intermediate driver's license and the
27 learner's license, every driver's license shall expire at the end of the
28 month in which it was issued eight (8) years from its date of initial
29 issuance unless the ~~Director~~ Secretary of the Department of Finance and
30 Administration provides by rule for some other staggered basis of expiration.

31
32 SECTION 4576. Arkansas Code § 27-16-901(a)(2)(A), concerning the
33 expiration and renewal of licenses, is amended to read as follows:

34 (2)(A) The ~~director~~ secretary may by rule shorten or lengthen
35 the term of any driver's license period, as necessary, to ensure that
36 approximately twenty-five percent (25%) of the total valid licenses are

1 renewable each fiscal year.

2

3 SECTION 4577. Arkansas Code § 27-16-901(a)(2)(B)(ii), concerning the
4 expiration and renewal of licenses, is amended to read as follows:

5 (ii) The adjustment of the fee shall be carried out
6 in the manner determined by the ~~director~~ secretary by rule.

7

8 SECTION 4578. Arkansas Code § 27-16-901(b), concerning the expiration
9 and renewal of licenses, is amended to read as follows:

10 (b) Every driver's license shall be renewable on or before its
11 expiration upon completion of an application, payment of the fees designated
12 in § 27-16-801, and passage of the eyesight test required in § 27-16-704 and
13 shall be renewed without other examination, unless the ~~director~~ secretary has
14 reason to believe that the licensee is no longer qualified to receive a
15 license.

16

17 SECTION 4579. Arkansas Code § 27-16-902(c), concerning the extension
18 of expiration date of licenses for military members, is amended to read as
19 follows:

20 (c) The ~~Director~~ Secretary of the Department of Finance and
21 Administration may promulgate rules necessary for compliance with this
22 section.

23

24 SECTION 4580. Arkansas Code § 27-16-907(e)(3), concerning the
25 suspension or revocation of licenses, is amended to read as follows:

26 (3)(A) A hearing officer appointed by the ~~Director~~ Secretary of
27 the Department of Finance and Administration shall schedule a hearing in an
28 office of the Revenue Division of the Department of Finance and
29 Administration designated by the ~~director~~ secretary for the hearings.

30 (B) The hearing shall be in the office in the county of
31 residence of the licensee unless the ~~director~~ secretary and licensee agree to
32 another location for the hearing or agree that the hearing shall be held by
33 telephone conference call.

34

35 SECTION 4581. Arkansas Code § 27-16-907(g), concerning the suspension
36 or revocation of licenses, is amended to read as follows:

1 (g) The ~~director~~ secretary may promulgate rules and regulations for
2 the administration of this section.

3
4 SECTION 4582. Arkansas Code § 27-16-909(a)(1), concerning the
5 suspension or revocation of license for the inability to drive, is amended to
6 read as follows:

7 (a)(1) The Office of Driver Services, having good cause to believe
8 that a licensed driver is incompetent or otherwise not qualified to be
9 licensed, may, upon written notice of at least five (5) days to the licensee,
10 require the licensee to submit to an initial evaluation by a hearing officer
11 appointed by the ~~Director~~ Secretary of the Department of Finance and
12 Administration in an office of the Revenue Division of the Department of
13 Finance and Administration designated by the ~~director~~ secretary.

14
15 SECTION 4583. Arkansas Code § 27-16-909(c)(3), concerning the
16 suspension or revocation of a license for the inability to drive, is amended
17 to read as follows:

18 (3)(A) A hearing officer appointed by the ~~director~~ secretary
19 shall schedule a hearing in an office of the revenue division designated by
20 the ~~director~~ secretary for hearings under this section.

21 (B) The hearing shall be in the office in the county of
22 residence of the licensee unless the ~~director~~ secretary and licensee agree to
23 another location for the hearing or agree that the hearing shall be held by
24 telephone conference call.

25
26 SECTION 4584. Arkansas Code § 27-16-909(e), concerning the suspension
27 or revocation of a license for the inability to drive, is amended to read as
28 follows:

29 (e) The ~~director~~ secretary may promulgate rules and regulations for
30 the orderly and efficient administration of this section.

31
32 SECTION 4585. Arkansas Code § 27-16-913(a)(3), concerning the right of
33 appeal to the court of record, is amended to read as follows:

34 (3) A copy of the petition shall be served upon the ~~Director~~
35 Secretary of the Department of Finance and Administration in accordance with
36 the Arkansas Rules of Civil Procedure.

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SECTION 4586. Arkansas Code § 27-16-915(b)(1)(C), concerning suspension for a conviction of a controlled substances offense, is amended to read as follows:

(C) Courts outside Arkansas having jurisdiction over a person holding driving privileges issued by the State of Arkansas shall prepare and transmit an order pursuant to an agreement or arrangement entered into between that state and the ~~Director~~ Secretary of the Department of Finance and Administration.

SECTION 4587. Arkansas Code § 27-16-1105(c)(2), concerning the minimum issuance standards for driver's licenses, is amended to read as follows:

(2) No later than January 31, 2006, the ~~Director~~ Secretary of the Department of Finance and Administration shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as the Verification Information System database of the Systematic Alien Verification for Entitlements Program, as provided by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, to verify the legal presence status of a person other than a United States citizen applying for a driver's license or identification card.

SECTION 4588. The introductory language of Arkansas Code § 27-16-1106, concerning additional requirements regarding the issuance of driver's licenses and identification cards, is amended to read as follows:

To meet the requirements of this section regarding the issuance of driver's licenses and identification cards, the ~~Director~~ Secretary of the Department of Finance and Administration shall:

SECTION 4589. Arkansas Code § 27-16-1107(a), concerning the linking of databases, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration shall ensure that the State of Arkansas is eligible to receive any grant or other type of financial assistance made available under federal law regarding driver's license security and modernization.

1 SECTION 4590. The introductory language of Arkansas Code § 27-16-
2 1107(b), concerning the linking of databases, is amended to read as follows:

3 (b) The ~~director~~ secretary shall implement and oversee a motor vehicle
4 database that contains at a minimum the following information:

5
6 SECTION 4591. Arkansas Code § 27-16-1108 is amended to read as
7 follows:

8 27-16-1108. Rules.

9 The ~~Director~~ Secretary of the Department of Finance and Administration
10 shall promulgate rules to implement and administer this subchapter.

11
12 SECTION 4592. Arkansas Code § 27-16-1203(2), concerning the definition
13 of "director" under the Arkansas Voluntary Enhanced Security Driver's License
14 and Identification Card Act, is repealed.

15 ~~(2) "Director" means the Director of the Department of Finance~~
16 ~~and Administration;~~

17
18 SECTION 4593. Arkansas Code § 27-16-1204(a), concerning system
19 development under the Arkansas Voluntary Enhanced Security Driver's License
20 and Identification Card Act, is amended to read as follows:

21 (a) Notwithstanding any other provision of law, the ~~Director~~ Secretary
22 of the Department of Finance and Administration may perform any system
23 development necessary to implement the requirements of this subchapter.

24
25 SECTION 4594. Arkansas Code § 27-16-1207(a)(11), concerning issuance
26 standards and proof of physical address, is amended to read as follows:

27 (11) Any other documentation the ~~Director~~ Secretary of the
28 Department of Finance and Administration determines to be adequate proof of
29 physical address.

30
31 SECTION 4595. Arkansas Code § 27-16-1207(d), concerning issuance
32 standards and proof of physical address, is amended to read as follows:

33 (d) The ~~director~~ secretary may require additional proof of physical
34 address if the ~~director~~ secretary questions the validity or authenticity of
35 the proof of physical address submitted by the applicant.

36

1 SECTION 4596. The introductory language of Arkansas Code § 27-16-1208,
2 concerning evidence of lawful status, is amended to read as follows:

3 The ~~Director~~ Secretary of the Department of Finance and Administration
4 shall require before issuing a voluntary enhanced security driver's license,
5 voluntary enhanced security commercial driver's license, or voluntary
6 enhanced security identification card valid documentary evidence that the
7 applicant:

8
9 SECTION 4597. Arkansas Code § 27-16-1209(d), concerning the expiration
10 and renewal of a voluntary enhanced security driver's license, is amended to
11 read as follows:

12 (d) The ~~Director~~ Secretary of the Department of Finance and
13 Administration may by rule shorten or lengthen the term of any driver's
14 license or identification card period under this section, as necessary, to
15 ensure that approximately twenty-five percent (25%) of the total valid
16 licenses are renewable each fiscal year.

17
18 SECTION 4598. Arkansas Code § 27-16-1211 is amended to read as
19 follows:

20 27-16-1211. Authority to promulgate rules.

21 The ~~Director~~ Secretary of the Department of Finance and Administration
22 may promulgate any necessary rules to carry out this subchapter, subject to
23 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

24
25 SECTION 4599. The introductory language of Arkansas Code § 27-16-1212,
26 concerning the implementation date for voluntary enhanced identification and
27 security features, is amended to read as follows:

28 This subchapter shall be effective and shall be implemented only if the
29 ~~Director~~ Secretary of the Department of Finance and Administration:

30
31 SECTION 4600. Arkansas Code § 27-19-202 is amended to read as follows:
32 27-19-202. Commissioner.

33 "Commissioner" means the ~~Director~~ Secretary of the Department of
34 Finance and Administration acting in his or her capacity as Commissioner of
35 Motor Vehicles of this state.

36

1 SECTION 4601. Arkansas Code § 27-19-401 is amended to read as follows:
2 27-19-401. Responsibility.

3 The ~~Director~~ Secretary of the Department of Finance and Administration
4 shall administer and enforce the provisions of this chapter.

5

6 SECTION 4602. Arkansas Code § 27-19-402 is amended to read as follows:
7 27-19-402. Rules and regulations.

8 The ~~Director~~ Secretary of the Department of Finance and Administration
9 may make rules and regulations necessary for the administration of this
10 chapter.

11

12 SECTION 4603. Arkansas Code § 27-19-403 is amended to read as follows:
13 27-19-403. Forms.

14 The ~~Director~~ Secretary of the Department of Finance and Administration
15 shall prescribe and provide suitable forms requisite or deemed necessary for
16 the purposes of this chapter.

17

18 SECTION 4604. Arkansas Code § 27-19-404(3), concerning the procedure
19 for suspension of a license, is amended to read as follows:

20 (3) A hearing officer appointed by the ~~Director~~ Secretary of the
21 Department of Finance and Administration shall schedule a hearing in an
22 office of the Revenue Division of the Department of Finance and
23 Administration designated by the ~~director~~ secretary for the hearings. The
24 hearing shall be in the office in the county of residence of the licensee
25 unless the ~~director~~ secretary and licensee agree to another location for the
26 hearing or agree that the hearing shall be held by telephone conference
27 call.;

28

29 SECTION 4605. Arkansas Code § 27-19-405 is amended to read as follows:
30 27-19-405. Requests of persons aggrieved.

31 The ~~Director~~ Secretary of the Department of Finance and Administration
32 shall receive and consider any pertinent information upon request of persons
33 aggrieved by his or her orders or acts under any of the provisions of this
34 chapter.

35

36 SECTION 4606. Arkansas Code § 27-19-408(a) and (b), concerning the

1 court review of actions of the Director of the Department of Finance and
2 Administration, are amended to read as follows:

3 (a) Any order or act of the ~~Director~~ Secretary of the Department of
4 Finance and Administration under the provisions of this chapter shall be
5 subject to a de novo petition of review in the circuit court of the district
6 in which any party of interest resides.

7 (b) The filing of a petition of review shall not operate as an
8 automatic stay of any order or act of the ~~director~~ secretary.

9
10 SECTION 4607. Arkansas Code § 27-19-408(d), concerning the court
11 review of actions of the Director of the Department of Finance and
12 Administration, is amended to read as follows:

13 (d) The circuit judge is vested with the jurisdiction to determine
14 whether the petitioner is entitled to a license or whether the act or order
15 of the ~~director~~ secretary should be affirmed, modified, or reversed.

16
17 SECTION 4608. Arkansas Code § 27-19-501 is amended to read as follows:
18 27-19-501. Report required.

19 The driver of a vehicle of a type subject to registration under the
20 motor vehicle laws of this state that is in any manner involved in an
21 accident within this state which accident has resulted in damage to the
22 property of any one (1) person in excess of one thousand dollars (\$1,000) or
23 in bodily injury to or in the death of any person shall report the accident
24 to the Office of Driver Services within thirty (30) days after the accident
25 on an electronic or paper form approved by the ~~Director~~ Secretary of the
26 Department of Finance and Administration subject to the exemptions provided
27 in §§ 27-19-509 and 27-19-604.

28
29 SECTION 4609. Arkansas Code § 27-19-605(b), concerning the
30 requirements of a bond or policy, is amended to read as follows:

31 (b) No policy or bond shall be effective under § 27-19-604 with
32 respect to any vehicle which was not registered in this state or was a
33 vehicle which was registered elsewhere than in this state at the effective
34 date of the policy or bond or the most recent renewal thereof, unless the
35 insurance company or surety company issuing the policy or bond is authorized
36 to do business in this state, or if the company is not authorized to do

1 business in this state, unless it shall execute a power of attorney
2 authorizing the ~~Director~~ Secretary of the Department of Finance and
3 Administration to accept service on its behalf of notice or process in any
4 action upon the policy or bond arising out of an accident.

5
6 SECTION 4610. Arkansas Code § 27-19-712(b)(2)(A), concerning a
7 certificate of insurance as proof of financial responsibility, is amended to
8 read as follows:

9 (A) The insurance carrier shall execute a power of
10 attorney authorizing the ~~Director~~ Secretary of the Department of Finance and
11 Administration to accept on its behalf service of notice or process in any
12 action arising out of a motor vehicle accident in this state; and

13
14 SECTION 4611. Arkansas Code § 27-20-105(a)-(c), concerning the
15 registration and renewal period, are amended to read as follows:

16 (a) The ~~Director~~ Secretary of the Department of Finance and
17 Administration shall establish a system for the registration of motorcycles
18 and motor-driven cycles on a monthly series basis to distribute the work of
19 registering motorcycles and motor-driven cycles as uniformly as practicable
20 throughout the twelve (12) months of the calendar year.

21 (b) When a person applies for the registration of a motorcycle or
22 motor-driven cycle and the issuance of a permanent license plate, the decals
23 issued by the ~~director~~ secretary for attachment to the permanent license
24 plate to evidence the registration period shall be decals for the current
25 month in which application is made for registration, regardless of the day of
26 the month on which application is made.

27 (c) The ~~director~~ secretary shall, upon request, assign to any owner of
28 two (2) or more vehicles the same registration period.

29
30 SECTION 4612. Arkansas Code § 27-20-202(a), concerning the required
31 registration for all-terrain vehicles, is amended to read as follows:

32 (a) All owners of three-wheeled, four-wheeled, or six-wheeled all-
33 terrain vehicles that are not otherwise required to be registered by law
34 shall register them with the ~~Director~~ Secretary of the Department of Finance
35 and Administration within thirty (30) calendar days of acquiring them.

36

1 SECTION 4613. Arkansas Code § 27-20-205(a), concerning the certificate
2 of title for an all-terrain vehicle, is amended to read as follows:

3 (a) The ~~Director~~ Secretary of the Department of Finance and
4 Administration shall issue a certificate of title to the owner of a three-
5 wheeled, four-wheeled, or six-wheeled all-terrain vehicle that has been
6 registered with the Department of Finance and Administration.

7
8 SECTION 4614. Arkansas Code § 27-20-206 is amended to read as follows:
9 27-20-206. Numbered license decal.

10 The ~~Director~~ Secretary of the Department of Finance and Administration
11 shall furnish the owners of three-wheeled, four-wheeled, or six-wheeled all-
12 terrain vehicles that have been registered with the Department of Finance and
13 Administration a numbered license decal that shall be attached to the left
14 front side of the vehicle.

15
16 SECTION 4615. Arkansas Code § 27-20-208 is amended to read as follows:
17 27-20-208. Regulations.

18 The ~~Director~~ Secretary of the Department of Finance and Administration
19 may promulgate such rules and regulations as necessary to implement this
20 subchapter.

21
22 SECTION 4616. Arkansas Code § 27-22-107(a)(2)(A), concerning motor
23 vehicle insurance reporting, is amended to read as follows:

24 (2)(A) The ~~Director~~ Secretary of the Department of Finance and
25 Administration may choose a vendor to provide an online insurance
26 verification system which will comply with the industry standards as
27 recommended by the Insurance Industry Committee on Motor Vehicle
28 Administration when there are two (2) or more vendors that demonstrate to the
29 department the ability to meet the Insurance Industry Committee on Motor
30 Vehicle Administration standard.

31
32 SECTION 4617. Arkansas Code § 27-22-107(a)(2)(B), concerning motor
33 vehicle insurance reporting, is amended to read as follows:

34 (B) If the ~~director~~ secretary certifies that seventy
35 percent (70%) or more of the motor vehicle insurance policies in effect on a
36 specific date are being accessed according to the industry standards in the

1 online insurance verification system, each insurance company shall provide
2 access to the data through the online insurance verification system.

3
4 SECTION 4618. Arkansas Code § 27-22-107(c), concerning motor vehicle
5 insurance reporting, is amended to read as follows:

6 (c) The department may, following procedures set forth in regulations
7 promulgated by the department, assess a penalty against each insurance
8 company of up to two hundred fifty dollars (\$250) for each day the insurance
9 company fails to comply with this section. If an insurance company shows that
10 the failure to comply with this section was inadvertent, accidental, outside
11 of the control of the company, or the result of excusable neglect, the
12 ~~Director~~ Secretary of the Department of Finance and Administration may excuse
13 the penalty. The moneys collected from these penalties shall be deposited as
14 a special revenue into the State Central Services Fund, and the net amount
15 shall be credited as a direct revenue to be used by the department to offset
16 the costs of administering this section.

17
18 SECTION 4619. Arkansas Code § 27-23-124(a), concerning the Commercial
19 Driver License Fund, is amended to read as follows:

20 (a) There is hereby established on the books of the Treasurer of
21 State, Auditor of State, and Chief Fiscal Officer of the State, a fund to be
22 known as the "Commercial Driver License Fund" of the Revenue Division of the
23 Department of Finance and Administration. The Commercial Driver License Fund
24 shall consist of special revenues as set out in § 27-23-118, to be used to
25 establish and maintain the Arkansas Commercial Driver License Program, and
26 for other related purposes as required by the ~~Director~~ Secretary of the
27 Department of Finance and Administration in carrying out the functions,
28 powers, and duties of the division.

29
30 SECTION 4620. Arkansas Code § 27-24-102(1), concerning the purpose and
31 implementation of a special license plate law, is amended to read as follows:

32 (1) Implement a special license plate law that transfers the
33 authority for approving special license plates to the ~~Director~~ Secretary of
34 the Department of Finance and Administration;

35
36 SECTION 4621. Arkansas Code § 27-24-104(a), concerning the reissuance

1 and regulation of special license plates, is amended to read as follows:

2 (a) Every special license plate continued under this chapter shall be
3 discontinued on April 7, 2007, unless an application that meets the criteria
4 for issuance of the special license plate under the appropriate subchapter
5 governing that type of plate is submitted and approved by the ~~Director~~
6 Secretary of the Department of Finance and Administration at least ninety
7 (90) days prior to April 1, 2007.

8

9 SECTION 4622. The introductory language of Arkansas Code § 27-24-
10 104(b), concerning the reissuance and regulation of special license plates,
11 is amended to read as follows:

12 (b) The ~~director~~ secretary shall promulgate rules in accordance with
13 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out
14 the duties of the Department of Finance and Administration under this
15 chapter, including, but not limited to:

16

17 SECTION 4623. Arkansas Code § 27-24-105(a), concerning the design of a
18 special license plate, is amended to read as follows:

19 (a) Unless otherwise provided in this chapter, the ~~Director~~ Secretary
20 of the Department of Finance and Administration shall have the exclusive
21 power to design or approve the design used on a special license plate
22 authorized under this chapter.

23

24 SECTION 4624. Arkansas Code § 27-24-107 is amended to read as follows:
25 27-24-107. Appeals.

26 An appeal from a decision of the ~~Director~~ Secretary of the Department
27 of Finance and Administration under this chapter shall be governed by the
28 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

29

30 SECTION 4625. The introductory language of Arkansas Code § 27-24-
31 204(a), concerning the military and veteran special license plates and
32 decals, is amended to read as follows:

33 (a) The following special license plates or license plates with
34 permanent decals for members and veterans of the United States Armed Forces
35 and similar entities that were in existence or authorized by enactment on or
36 before April 13, 2005, shall continue to be issued by the ~~Director~~ Secretary

1 of the Department of Finance and Administration to an eligible applicant:

2
3 SECTION 4626. Arkansas Code § 27-24-204(b), concerning the military
4 and veteran special license plates and decals, is amended to read as follows:

5 (b) Beginning January 1, 2014, the ~~director~~ secretary shall create and
6 issue a permanent decal for a Vietnam Era Veteran consistent with § 27-24-209
7 to an eligible applicant.

8
9 SECTION 4627. Arkansas Code § 27-24-204(c)(1), concerning the military
10 and veteran special license plates and decals, is amended to read as follows:

11 (c)(1) The Purple Heart Recipient special license plate that
12 existed before April 13, 2005, shall continue to be issued by the ~~director~~
13 secretary to an eligible applicant.

14
15 SECTION 4628. The introductory language of Arkansas Code § 27-24-
16 204(d), concerning the military and veteran special license plates and
17 decals, is amended to read as follows:

18 (d) The ~~director~~ secretary shall promulgate rules and forms to ensure
19 that an owner of a motor vehicle who is issued a special license plate under
20 this subchapter:

21
22 SECTION 4629. Arkansas Code § 27-24-206(a)(2), concerning the fees and
23 limitation regarding special license plates, is amended to read as follows:

24 (2) To defray the cost of the issuance and renewal of the first
25 special license plate under this subchapter, the ~~Director~~ Secretary of the
26 Department of Finance and Administration may charge an annual fee for renewal
27 not to exceed one dollar (\$1.00).

28
29 SECTION 4630. Arkansas Code § 27-24-213(e)(1)(B), concerning Veterans
30 of Foreign Wars special license plates, is amended to read as follows:

31 (B) An annual fee not to exceed one dollar (\$1.00) that
32 the ~~Director~~ Secretary of the Department of Finance and Administration may
33 charge for the issuance and renewal of the first special license plate; and
34

35 SECTION 4631. Arkansas Code § 27-24-401 is amended to read as follows:
36 27-24-401. Purpose.

1 The purpose of this subchapter is to continue the State Highway
2 Commission's exemption from the requirement to display motor vehicle license
3 plates issued by the ~~Director~~ Secretary of the Department of Finance and
4 Administration and to transfer the authority to the commission to determine
5 by minute order whether additional metal plates should be issued.

6
7 SECTION 4632. Arkansas Code § 27-24-501(c), concerning a federal
8 government vehicle exemption, is amended to read as follows:

9 (c) The ~~Director~~ Secretary of the Department of Finance and
10 Administration shall approve the design and form of a special license plate
11 used under this section.

12
13 SECTION 4633. Arkansas Code § 27-24-603 is amended to read as follows:
14 27-24-603. Existing special license plates.

15 The miscellaneous nominal fee special license plates with the specific
16 eligibility criteria that were in existence before April 13, 2005, and that
17 are contained in this subchapter shall continue to be issued by the ~~Director~~
18 Secretary of the Department of Finance and Administration.

19
20 SECTION 4634. The introductory language of Arkansas Code § 27-24-604,
21 concerning additional special license plates, is amended to read as follows:

22 The ~~Director~~ Secretary of the Department of Finance and Administration
23 may create and issue additional special license plates under this subchapter
24 if:

25
26 SECTION 4635. Arkansas Code § 27-24-604(2), concerning additional
27 special license plates, is amended to read as follows:

28 (2) The creation and issuance of the special license plate will
29 have a minimal annual fiscal and budgetary impact as determined by the
30 ~~director~~ secretary; and

31
32 SECTION 4636. Arkansas Code § 27-24-606(a)(1), concerning religious
33 organizations, is amended to read as follows:

34 (a)(1) The pastor, minister, priest, rabbi, or other person in charge
35 of a religious organization and the chair of the governing body of the
36 religious organization may apply to the ~~Director~~ Secretary of the Department

1 of Finance and Administration for the issuance of a church bus special
2 license plate to be used exclusively on church buses owned and operated by
3 the religious organization.

4
5 SECTION 4637. Arkansas Code § 27-24-607 is amended to read as follows:
6 27-24-607. Youth groups.

7 (a) A civic club, person, or entity that furnishes to a youth group a
8 motor vehicle that is used exclusively for youth group purposes may apply to
9 the ~~Director~~ Secretary of the Department of Finance and Administration for
10 the issuance of a youth group special license plate to be used exclusively on
11 motor vehicles that are operated for the purposes of the youth group.

12 (b) A youth group that owns and operates a motor vehicle that is used
13 exclusively for youth group purposes may apply to the ~~director~~ secretary for
14 the issuance of a youth group special license plate to be used exclusively on
15 motor vehicles that are owned by the youth group and operated for the
16 purposes of the youth group.

17
18 SECTION 4638. Arkansas Code § 27-24-608 is amended to read as follows:
19 27-24-608. 4-H clubs.

20 (a) A civic club, person, or entity that furnishes to a 4-H club a
21 motor vehicle that is used exclusively for 4-H club purposes may apply to the
22 ~~Director~~ Secretary of the Department of Finance and Administration for the
23 issuance of a 4-H club special license plate to be used exclusively on motor
24 vehicles that are operated for the purposes of the 4-H club.

25 (b) A 4-H club that owns and operates a motor vehicle that is used
26 exclusively for 4-H club purposes may apply to the ~~director~~ secretary for the
27 issuance of a 4-H club special license plate to be used exclusively on motor
28 vehicles that are owned by the 4-H club and operated for the purposes of the
29 4-H club.

30
31 SECTION 4639. Arkansas Code § 27-24-609(a), concerning motor vehicles
32 used exclusively by volunteer rescue squads, is amended to read as follows:

33 (a) A person or entity that owns a motor vehicle that is used
34 exclusively by volunteer rescue squads may apply to the ~~Director~~ Secretary of
35 the Department of Finance and Administration for the issuance of a volunteer
36 rescue squad special license plate to be used exclusively on motor vehicles

1 that are operated for the purposes of the volunteer rescue squad.

2
3 SECTION 4640. Arkansas Code § 27-24-610 is amended to read as follows:
4 27-24-610. Boy Scouts of America.

5 A civic club, person, or entity that furnishes a bus or truck for
6 exclusive use for Boy Scouts of America purposes may apply to the ~~Director~~
7 Secretary of the Department of Finance and Administration for the issuance of
8 a motor vehicle special license plate to be used exclusively on motor
9 vehicles that are operated for the purposes of the scouts.

10
11 SECTION 4641. Arkansas Code § 27-24-612 is amended to read as follows:
12 27-24-612. Orphanages.

13 (a) The head of an orphanage in the State of Arkansas may apply to the
14 ~~Director~~ Secretary of the Department of Finance and Administration for the
15 issuance of a motor vehicle special license plate to be used exclusively on
16 motor vehicles that are operated for the purposes of the orphanage.

17 (b) The application shall include an affidavit on a form prescribed by
18 the ~~director~~ secretary that is signed by the applicant and which states that
19 the motor vehicle to which the special license plate shall be attached is
20 owned or exclusively leased by the orphanage and used exclusively for
21 functions related to the orphanage.

22
23 SECTION 4642. Arkansas Code § 27-24-702 is amended to read as follows:
24 27-24-702. Special license plates.

25 The ~~Director~~ Secretary of the Department of Finance and Administration
26 shall furnish each member of the General Assembly a special license plate for
27 his or her personal motor vehicle as provided in this subchapter.

28
29 SECTION 4643. Arkansas Code § 27-24-703(a)(1), concerning license
30 plates for members of the Senate, is amended to read as follows:

31 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
32 Administration shall each year cause to be prepared thirty-nine (39) special
33 license plates for members and selected staff of the Senate and deliver them
34 to the Secretary of the Senate for distribution.

35
36 SECTION 4644. Arkansas Code § 27-24-703(b), concerning license plates

1 for members of the Senate, is amended to read as follows:

2 (b) Upon each of the special license plates there shall appear the
3 word "Senator" in addition to other identification information as the
4 ~~director~~ Secretary of the Department of Finance and Administration with the
5 approval of the Senate Efficiency Committee and subject to the approval of
6 the Senate.

7

8 SECTION 4645. Arkansas Code § 27-24-703(c)(2), concerning license
9 plates for members of the Senate, is amended to read as follows:

10 (2) On or before January 15 of each odd-numbered year, the
11 ~~secretary~~ Secretary of the Senate as directed by the Senate Efficiency
12 Committee shall furnish the ~~director~~ Secretary of the Department of Finance
13 and Administration with a list of the names of members of the Senate and
14 shall designate the special license plate number that shall be reserved for
15 each member of the Senate.

16

17 SECTION 4646. Arkansas Code § 27-24-703(d), concerning license plates
18 for members of the Senate, is amended to read as follows:

19 (d) A member of the Senate who desires to obtain special license
20 plates may obtain them by applying to the ~~director~~ Secretary of the
21 Department of Finance and Administration upon forms to be provided by him or
22 her and upon the payment of all taxes and fees that may be due.

23

24 SECTION 4647. Arkansas Code § 27-24-704(a)(1), concerning license
25 plates for members of the House of Representatives, is amended to read as
26 follows:

27 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
28 Administration shall each calendar year cause to be prepared two (2) sets as
29 deemed necessary by the House Management Committee of one hundred seven (107)
30 special license plates for members of the House of Representatives and
31 selected staff.

32

33 SECTION 4648. Arkansas Code § 27-24-704(a)(3), concerning license
34 plates for members of the House of Representatives, is amended to read as
35 follows:

36 (3) Upon receipt of the plates, the ~~director~~ secretary shall

1 deliver them to the Speaker of the House of Representatives for issuance.

2

3 SECTION 4649. The introductory language of Arkansas Code § 27-24-
4 704(c), concerning license plates for members of the House of
5 Representatives, is amended to read as follows:

6 (c) On or before January 15 of each year, the Speaker of the House of
7 Representatives shall furnish the ~~director~~ secretary with a list of names of
8 members of the House of Representatives designating:

9

10 SECTION 4650. Arkansas Code § 27-24-802 is amended to read as follows:
11 27-24-802. Special license plates authorized.

12 The ~~Director~~ Secretary of the Department of Finance and Administration
13 shall furnish each constitutional officer a Constitutional Officer special
14 license plate for his or her personal motor vehicles under this subchapter.

15

16 SECTION 4651. Arkansas Code § 27-24-803(a)(1), concerning the
17 Constitutional Officer special license plate, is amended to read as follows:

18 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
19 Administration shall each year cause to be prepared seven (7) special license
20 plates for the constitutional officers.

21

22 SECTION 4652. Arkansas Code § 27-24-803(b)(1), concerning the
23 Constitutional Officer special license plate, is amended to read as follows:

24 (b)(1) Upon each of the special license plates there shall appear the
25 words "Constitutional Officer" in addition to the other identifying
26 information as the ~~director~~ Secretary of the Department of Finance and
27 Administration shall determine.

28

29 SECTION 4653. Arkansas Code § 27-24-803(c)(2), concerning the
30 Constitutional Officer special license plate, is amended to read as follows:

31 (2) On or before January 15 of each odd-numbered year, the
32 Governor shall furnish the ~~director~~ Secretary of the Department of Finance
33 and Administration with a list of the names of the constitutional officers,
34 and each other officer shall furnish the Governor with the name of any other
35 person who may display the special license plate.

36

1 SECTION 4654. Arkansas Code § 27-24-803(d), concerning the
2 Constitutional Officer special license plate, is amended to read as follows:

3 (d) A constitutional officer who desires to obtain special license
4 plates may obtain them by applying to the ~~director~~ Secretary of the
5 Department of Finance and Administration upon forms to be provided by the
6 ~~director~~ Secretary of the Department of Finance and Administration and by
7 paying the taxes and fees that may be due.

8
9 SECTION 4655. Arkansas Code § 27-24-902(b), concerning the
10 continuation of existing special license plates for Arkansas State Game and
11 Fish Commission vehicles, is amended to read as follows:

12 (b) The special license plates to be issued to the commission and
13 displayed on its vehicles shall be designed by the commission with the
14 approval of the ~~Director~~ Secretary of the Department of Finance and
15 Administration.

16
17 SECTION 4656. Arkansas Code § 27-24-903(a), concerning existing
18 special license plates, is amended to read as follows:

19 (a) Except as provided in subsection (b) of this section, the ~~Director~~
20 Secretary of the Department of Finance and Administration shall continue the
21 Arkansas State Game and Fish Commission special license plates that existed
22 before April 13, 2005.

23
24 SECTION 4657 Arkansas Code § 27-24-903(b)(2), concerning existing
25 special license plates, is amended to read as follows:

26 (2) To request a discontinuance of one (1) or more special
27 license plates under this subchapter, the commission shall present a
28 resolution to the ~~director~~ secretary stating which plates the department is
29 to discontinue.

30
31 SECTION 4658. Arkansas Code § 27-24-904(a), concerning additional
32 special license plate requests from the Arkansas State Game and Fish
33 Commission, is amended to read as follows:

34 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
35 Administration shall accept requests from the Arkansas State Game and Fish
36 Commission to create and issue additional special license plates under this

1 subchapter.

2 (2) The commission shall submit with the request for an
3 additional special license plate a proposed design for the approval of the
4 ~~director~~ secretary.

5
6 SECTION 4659. The introductory language of Arkansas Code § 27-24-
7 904(b), concerning additional special license plate requests from the
8 Arkansas State Game and Fish Commission, is amended to read as follows:

9 (b) When considering a request from the commission for an additional
10 special license plate, the ~~director~~ secretary shall consider the following
11 factors:

12

13 SECTION 4660. The introductory language of Arkansas Code § 27-24-
14 904(c)(1), concerning additional special license plate requests from the
15 Arkansas State Game and Fish Commission, is amended to read as follows:

16 (c)(1) If the request is approved, the ~~director~~ secretary shall
17 determine:

18

19 SECTION 4661. Arkansas Code § 27-24-906(2)(B), concerning license
20 plate options, is amended to read as follows:

21 (B) However, the use of letters and numbers on a
22 personalized prestige license plate shall be limited to the rules of the
23 ~~Director~~ Secretary of the Department of Finance and Administration.

24

25 SECTION 4662. Arkansas Code § 27-24-1003(a), concerning existing
26 special license plates, is amended to read as follows:

27 (a) Except as provided in subsection (b) of this section, the ~~Director~~
28 Secretary of the Department of Finance and Administration shall continue the
29 collegiate special license plates that existed before April 13, 2005.

30

31 SECTION 4663. Arkansas Code § 27-24-1003(b)(2), concerning existing
32 special license plates, is amended to read as follows:

33 (2) To request a discontinuance of a special license plate
34 issued under this subchapter, the board of trustees of the college or
35 university shall present a resolution to the ~~director~~ secretary requesting
36 the department to discontinue the college's or university's special license

1 plate.

2

3 SECTION 4664. Arkansas Code § 27-24-1004 is amended to read as
4 follows:

5 27-24-1004. Additional special license plates.

6 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
7 Administration shall accept requests from the board of trustees of a college
8 or university to create and issue a special license plate under this
9 subchapter for the college or university.

10 (2) The board of trustees shall submit with the request for a
11 special license plate a proposed design for the approval of the ~~director~~
12 secretary.

13 (b) The ~~director~~ secretary shall approve one (1) design for a special
14 license plate for each college or university that requests a special license
15 plate.

16 (c) The ~~director~~ secretary shall determine:

17 (1) The fee for the cost of initial orders of new designs for
18 special license plates which shall be based on the cost of initial orders of
19 new designs for special license plates;

20 (2) The number of applications that must be received to cover
21 the cost of the initial orders of new designs for special license plates; or

22 (3) The combination of subdivisions (c)(1) and (2) of this
23 section that must be received to cover the cost of the initial orders of the
24 new designs for special license plates.

25 (d) The ~~director~~ secretary shall issue additional special license
26 plates as provided under this subchapter.

27

28 SECTION 4665. Arkansas Code § 27-24-1007(2)(B), concerning license
29 plate options, is amended to read as follows:

30 (B) However, the use of letters and numbers on a
31 personalized prestige license plate shall be limited to the rules of the
32 ~~Director~~ Secretary of the Department of Finance and Administration.

33

34 SECTION 4666. Arkansas Code § 27-24-1010(a), concerning the Arkansas
35 School for the Deaf special license plate, is amended to read as follows:

36 (a) The ~~Director~~ Secretary of the Department of Finance and

1 Administration shall issue a special license plate for the Arkansas School
2 for the Deaf in the manner and subject to the conditions provided under this
3 subchapter.

4

5 SECTION 4667. The introductory language of Arkansas Code § 27-24-
6 1010(c), concerning the Arkansas School for the Deaf special license plate,
7 is amended to read as follows:

8 (c) The ~~director~~ secretary shall determine the amount of the cost for
9 the issuance of the special license plate under this section as follows:
10

11 SECTION 4668. Arkansas Code § 27-24-1103 is amended to read as
12 follows:

13 27-24-1103. Existing special license plate.

14 The special license plate for the Division of Agriculture of the
15 University of Arkansas that was in existence before April 13, 2005, shall
16 continue to be issued by the ~~Director~~ Secretary of the Department of Finance
17 and Administration.

18

19 SECTION 4669. Arkansas Code § 27-24-1104 is amended to read as
20 follows:

21 27-24-1104. Additional special license plates.

22 The ~~Director~~ Secretary of the Department of Finance and Administration
23 shall accept requests for a special license plate for the agriculture
24 division, department, or program of a college or university under this
25 subchapter.

26

27 SECTION 4670. Arkansas Code § 27-24-1105(a) and (b), concerning the
28 design and approval procedure for a special license plate, are amended to
29 read as follows:

30 (a) The board of trustees of a college or university shall submit with
31 its request for a special license plate for its agriculture program a
32 proposed design for the approval of the ~~Director~~ Secretary of the Department
33 of Finance and Administration.

34 (b) The ~~director~~ secretary shall approve one (1) design for an
35 agriculture-related special license plate for each college or university that
36 requests or currently has a special license plate.

1
2 SECTION 4671. The introductory language of Arkansas Code § 27-24-
3 1105(c)(1), concerning the design and approval procedure for a special
4 license plate, is amended to read as follows:

5 (c)(1) If the ~~director~~ secretary approves the request, the ~~director~~
6 secretary shall determine:

7
8 SECTION 4672. Arkansas Code § 27-24-1105(d)(1), concerning the design
9 and approval procedure for a special license plate, is amended to read as
10 follows:

11 (d)(1) A college or university may submit a newly designed special
12 license plate for approval and issuance by the ~~director~~ secretary not more
13 than one (1) time in each period of five (5) years under this subchapter.
14

15 SECTION 4673. The introductory language of Arkansas Code § 27-24-
16 1105(d)(2), concerning the design and approval procedure for a special
17 license plate, is amended to read as follows:

18 (2) If the ~~director~~ secretary approves a request, then the
19 ~~director~~ secretary shall determine:

20
21 SECTION 4674. Arkansas Code § 27-24-1204 is amended to read as
22 follows:

23 27-24-1204. Additional special license plates.

24 The ~~Director~~ Secretary of the Department of Finance and Administration
25 shall accept requests for a special license plate for an African-American
26 fraternity or sorority that exists at a college or university in the State of
27 Arkansas under this subchapter.

28
29 SECTION 4675. Arkansas Code § 27-24-1205(a) and (b), concerning the
30 design and approval procedure for a special license plate that commemorates
31 an African-American fraternity or sorority, are amended to read as follows:

32 (a) The design for a special license plate issued under this
33 subchapter that commemorates an African-American fraternity or sorority shall
34 be designed by the African-American fraternity or sorority and shall be
35 submitted for the approval of the ~~Director~~ Secretary of the Department of
36 Finance and Administration.

1 (b) The ~~director~~ secretary shall approve one (1) design for each
2 participating African-American fraternity or sorority.

3
4 SECTION 4676. The introductory language of Arkansas Code § 27-24-
5 1205(c)(1), concerning the design and approval procedure for a special
6 license plate that commemorates an African-American fraternity or sorority,
7 is amended to read as follows:

8 (c)(1) If the ~~director~~ secretary approves the design, the ~~director~~
9 secretary shall determine:

10
11 SECTION 4677. Arkansas Code § 27-24-1205(d), concerning the design and
12 approval procedure for a special license plate that commemorates an African-
13 American fraternity or sorority, is amended to read as follows:

14 (d) The ~~director~~ secretary shall promulgate reasonable rules and
15 regulations and prescribe the forms necessary for effectively carrying out
16 the intent and purposes of this subchapter.

17
18 SECTION 4678. Arkansas Code § 27-24-1206(b)(2), concerning the
19 issuance, renewal, and replacement of a special license plate, is amended to
20 read as follows:

21 (2) A fee not to exceed twenty-five dollars (\$25.00) to be
22 determined by the ~~Director~~ Secretary of the Department of Finance and
23 Administration to cover the design-use contribution by the African-American
24 fraternity or sorority or for fund-raising purposes; and

25
26 SECTION 4679. Arkansas Code § 27-24-1307(a), concerning additional
27 public service special license plates with decals, is amended to read as
28 follows:

29 (a) The ~~Director~~ Secretary of the Department of Finance and
30 Administration shall accept requests from organizations that represent public
31 service employees, retired public service employees, or retired military
32 service members to create and issue a special license plate decal under this
33 subchapter.

34
35 SECTION 4680. The introductory language of Arkansas Code § 27-24-
36 1307(c), concerning additional public service special license plates with

1 decals, is amended to read as follows:

2 (c) If the request is approved, the ~~director~~ secretary shall
3 determine:

4
5 SECTION 4681. Arkansas Code § 27-24-1307(d)(1), concerning additional
6 public service special license plates with decals, is amended to read as
7 follows:

8 (d)(1) If the ~~director~~ secretary approves a request for an additional
9 special license plate decal under this section, then a person who establishes
10 with adequate proof that he or she is a member or retiree of the public
11 service profession or military branch may apply for and annually renew a
12 special license plate decal.

13
14 SECTION 4682. The introductory language of Arkansas Code § 27-24-
15 1402(a), concerning existing special license plates, is amended to read as
16 follows:

17 (a) The following special license plates that represent various
18 special interests and that were in existence or authorized by law on or
19 before April 13, 2005, shall continue to be issued by the ~~Director~~ Secretary
20 of the Department of Finance and Administration to a motor vehicle owner who
21 is otherwise eligible to license a motor vehicle in this state and who pays
22 the additional fees for the special license plate unless other eligibility
23 requirements are specifically stated in this subchapter:

24
25 SECTION 4683. Arkansas Code § 27-24-1402(c)(1), concerning existing
26 special license plates, is amended to read as follows:

27 (c)(1) Within thirty (30) days after April 13, 2005, the ~~director~~
28 secretary shall notify the organizations listed in subsection (b) of this
29 section that received the funds or were authorized to use the funds from a
30 design-use contribution fee for a special license plate that is continued
31 under this chapter and that was in effect before April 13, 2005, and the
32 State Highway Commission of a change in the law regarding special license
33 plates.

34
35 SECTION 4684. The introductory language of Arkansas Code § 27-24-
36 1402(c)(2)(A), concerning existing special license plates, is amended to read

1 as follows:

2 (2)(A) The organization shall submit to the ~~director~~ secretary
3 an application that includes the following:

4
5 SECTION 4685. Arkansas Code § 27-24-1402(c)(2)(B)(ii), concerning
6 existing special license plates, is amended to read as follows:

7 (ii) If the organization fails to comply with this
8 subdivision (c)(2)(B) within one hundred twenty (120) days after April 13,
9 2005, then the ~~director~~ secretary shall notify the organization that proceeds
10 from the special license plate design-use contribution fee will no longer be
11 remitted to the organization or the organization will no longer be able to
12 use the proceeds until the organization complies with this subdivision
13 (c)(2)(B).

14
15 SECTION 4686. The introductory language of Arkansas Code § 27-24-
16 1402(d), concerning existing special license plates, is amended to read as
17 follows:

18 (d) Every special license plate continued under this subchapter shall
19 be discontinued on April 7, 2007, unless an application is submitted to and
20 approved by the ~~director~~ secretary ninety (90) days prior to April 1, 2007,
21 that establishes the organization's compliance with the following conditions:

22
23 SECTION 4687. Arkansas Code § 27-24-1404(a), concerning the
24 application process for additional special interest license plate decals, is
25 amended to read as follows:

26 (a) A special interest organization may apply to the ~~Director~~
27 Secretary of the Department of Finance and Administration for the creation
28 and issuance of a special license plate that bears a decal for the special
29 interest group under this section beginning on July 1, 2006, and ending on
30 November 1, 2006, and on the same dates each year thereafter.

31
32 SECTION 4688. Arkansas Code § 27-24-1404(b)(2), concerning the
33 application process for additional special interest license plate decals, is
34 amended to read as follows:

35 (2) The ~~director~~ secretary shall either approve or deny each
36 application submitted during the fiscal year by July 1 of the following

1 fiscal year.

2

3 SECTION 4689. The introductory language of Arkansas Code § 27-24-
4 1404(c)(1)(A), concerning the application process for additional special
5 interest license plate decals, is amended to read as follows:

6 (c)(1)(A) If the request is approved, the ~~director~~ secretary shall
7 determine:

8

9 SECTION 4690. The introductory language of Arkansas Code § 27-24-
10 1404(c)(2), concerning the application process for additional special
11 interest license plate decals, is amended to read as follows:

12 (2) If the ~~director~~ secretary denies the application, then:

13

14 SECTION 4691. Arkansas Code § 27-24-1404(c)(2)(A), concerning the
15 application process for additional special interest license plate decals, is
16 amended to read as follows:

17 (A) The ~~director~~ secretary shall give the applicant
18 written notice of the reasons for the denial; and

19

20 SECTION 4692. Arkansas Code § 27-24-1406(b)(2), concerning license
21 plate options, is amended to read as follows:

22 (2) The use of letters and numbers on a personalized prestige
23 license plate under this section shall be limited by the rules of the
24 ~~Director~~ Secretary of the Department of Finance and Administration.

25

26 SECTION 4693. Arkansas Code § 27-24-1407(a), concerning the annual
27 report submitted to the Department of Finance and Administration, is amended
28 to read as follows:

29 (a) A special interest organization that is the sponsor of a special
30 license plate or a special license plate that bears a decal under this
31 subchapter shall prepare and submit an annual accounting report to the
32 ~~Director~~ Secretary of the Department of Finance and Administration by
33 December 1 of each calendar year.

34

35 SECTION 4694. The introductory language of Arkansas Code § 27-24-
36 1407(c), concerning the annual report submitted to the Department of Finance

1 and Administration, is amended to read as follows:

2 (c) If the special interest organization fails to comply with this
3 section, then the ~~director~~ secretary may:

4

5 SECTION 4695. Arkansas Code § 27-24-1409(a)(1), concerning the Support
6 Animal Rescue and Shelters special license plate decal, is amended to read as
7 follows:

8 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
9 Administration shall issue a special license plate that bears a decal that
10 states "Support Animal Rescue and Shelters" in the manner and subject to the
11 conditions provided under this subchapter.

12

13 SECTION 4696. Arkansas Code § 27-24-1411(a), concerning the Little
14 Rock Air Force Base, is amended to read as follows:

15 (a) The ~~Director~~ Secretary of the Department of Finance and
16 Administration shall issue a special license plate for the Little Rock Air
17 Force Base in the manner and subject to the conditions provided for under
18 this subchapter.

19

20 SECTION 4697. The introductory language of Arkansas Code § 27-24-
21 1411(c), concerning the Little Rock Air Force Base, is amended to read as
22 follows:

23 (c) The ~~director~~ secretary shall determine the cost for the issuance
24 of the special license plate under this section as follows:

25

26 SECTION 4698. Arkansas Code § 27-24-1412(a), concerning the special
27 license plate for the support of the Court Appointed Special Advocates
28 program, is amended to read as follows:

29 (a) The ~~Director~~ Secretary of the Department of Finance and
30 Administration shall issue a special license plate for support of the
31 Arkansas Court Appointed Special Advocates program in the manner and subject
32 to the conditions provided for under this subchapter.

33

34 SECTION 4699. Arkansas Code § 27-24-1412(b)(1)(B), concerning the
35 special license plate for the support of the Court Appointed Special
36 Advocates program, is amended to read as follows:

1 (B) The design shall be submitted for design approval by
2 the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and
3

4 SECTION 4700. The introductory language of Arkansas Code § 27-24-
5 1412(c), concerning the special license plate for the support of the Court
6 Appointed Special Advocates program, is amended to read as follows:

7 (c) The ~~director~~ secretary shall determine the amount of the costs for
8 the issuance of the special license plate under this section as follows:
9

10 SECTION 4701. Arkansas Code § 27-24-1414(a), concerning a special
11 license plate for the Arkansas Sheriffs' Association, is amended to read as
12 follows:

13 (a) The ~~Director~~ Secretary of the Department of Finance and
14 Administration shall issue a special license plate for the Arkansas Sheriffs'
15 Association in the manner and subject to the conditions provided for under
16 this subchapter.
17

18 SECTION 4702. Arkansas Code § 27-24-1414(b)(1)(B), concerning a
19 special license plate for the Arkansas Sheriffs' Association, is amended to
20 read as follows:

21 (B) The design shall be submitted for design approval by
22 the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and
23

24 SECTION 4703. Arkansas Code § 27-24-1415(a), concerning a children's
25 cancer research motor vehicle special license plate, is amended to read as
26 follows:

27 (a) The ~~Director~~ Secretary of the Department of Finance and
28 Administration shall create and issue a children's cancer research motor
29 vehicle special license plate in the manner and subject to the conditions
30 provided for under this subchapter.
31

32 SECTION 4704. Arkansas Code § 27-24-1415(b)(1)(B), concerning a
33 children's cancer research motor vehicle special license plate, is amended to
34 read as follows:

35 (B) The design shall be submitted for design approval by
36 the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and

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SECTION 4705. Arkansas Code § 27-24-1416(a), concerning a special license plate for the Arkansas Future Farmers of America Association, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration shall create and issue a special license plate for the Arkansas Future Farmers of America Association in the manner and subject to the conditions provided for under this subchapter.

SECTION 4706. Arkansas Code § 27-24-1416(b)(1)(B), concerning a special license plate for the Arkansas Future Farmers of America Association, is amended to read as follows:

(B) The design shall be submitted for design approval by the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and

SECTION 4707. Arkansas Code § 27-24-1419(a), concerning the Arkansas Tennis Association license plate, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Finance and Administration shall issue a special license plate for the Arkansas Tennis Association in the manner and subject to the conditions provided for under this subchapter.

SECTION 4708. Arkansas Code § 27-24-1419(b)(1)(B), concerning the Arkansas Tennis Association license plate, is amended to read as follows:

(B) The design shall be submitted for design approval by the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and

SECTION 4709. The introductory language of Arkansas Code § 27-24-1419(c), concerning the Arkansas Tennis Association license plate, is amended to read as follows:

(c) The ~~director~~ secretary shall determine the costs for the issuance of the special license plate under this section as follows:

SECTION 4710. Arkansas Code § 27-24-1420(a), concerning a special license plate for the Arkansas State Lodge Fraternal Order of Police, is amended to read as follows:

1 (a) The ~~Director~~ Secretary of the Department of Finance and
2 Administration shall issue a special license plate for the Arkansas State
3 Lodge Fraternal Order of Police in the manner and subject to the conditions
4 provided for under this subchapter.

5
6 SECTION 4711. Arkansas Code § 27-24-1420(b)(1)(B), concerning a
7 special license plate for the Arkansas State Lodge Fraternal Order of Police,
8 is amended to read as follows:

9 (B) The design shall be submitted for design approval by
10 the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and
11

12 SECTION 4712. Arkansas Code § 27-24-1422(a)(1), concerning a special
13 license plate in honor of Dr. Martin Luther King, Jr., is amended to read as
14 follows:

15 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
16 Administration shall issue a special license plate in honor of Dr. Martin
17 Luther King, Jr. in the manner and subject to the conditions provided for
18 under this subchapter.

19
20 SECTION 4713. Arkansas Code § 27-24-1422(b)(1)(B), concerning a
21 special license plate in honor of Dr. Martin Luther King, Jr., is amended to
22 read as follows:

23 (B) The design shall be submitted for design approval by
24 the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and
25

26 SECTION 4714. Arkansas Code § 27-24-1423(a), concerning an Autism
27 Awareness motor vehicle special license plate, is amended to read as follows:

28 (a) The ~~Director~~ Secretary of the Department of Finance and
29 Administration shall create and issue an Autism Awareness motor vehicle
30 special license plate in the manner and subject to the conditions provided
31 for under this subchapter.

32
33 SECTION 4715. Arkansas Code § 27-24-1424(a), concerning the hospice
34 and palliative care motor vehicle special license plate, is amended to read
35 as follows:

36 (a) The ~~Director~~ Secretary of the Department of Finance and

1 Administration shall issue a special motor vehicle license plate for support
2 of hospice and palliative care subject to the conditions provided for under
3 this subchapter.

4
5 SECTION 4716. Arkansas Code § 27-24-1424(b)(1)(B), concerning the
6 hospice and palliative care motor vehicle special license plate, is amended
7 to read as follows:

8 (B) The design shall be submitted for design approval by
9 the ~~director~~ secretary under rules promulgated by the ~~director~~ secretary; and

10
11 SECTION 4717. Arkansas Code § 27-24-1426(a), concerning the Quail
12 Forever special license plate, is amended to read as follows:

13 (a) The ~~Director~~ Secretary of the Department of Finance and
14 Administration shall create and issue a Quail Forever special license plate
15 in the manner and subject to the conditions provided for under this
16 subchapter.

17
18 SECTION 4718. Arkansas Code § 27-24-1427(a), concerning the Little
19 Rock Rangers Soccer Club special license plate, is amended to read as
20 follows:

21 (a) The ~~Director~~ Secretary of the Department of Finance and
22 Administration shall create and issue a Little Rock Rangers Soccer Club
23 special license plate in the manner and subject to the conditions provided
24 for under this subchapter.

25
26 SECTION 4719. Arkansas Code § 27-24-1602(a) and (b), concerning
27 special license plates and requests from the Department of Parks and Tourism,
28 are amended to read as follows:

29 (a)(1) The ~~Director~~ Secretary of the Department of Finance and
30 Administration shall accept requests from the Department of Parks, Heritage,
31 and Tourism to create and issue special license plates under this subchapter.

32 (2) The Department of Parks, Heritage, and Tourism shall submit
33 with a request for a special license plate a proposed design for the approval
34 of the ~~director~~ secretary.

35 (b) When considering a request from the Department of Parks, Heritage,
36 and Tourism for a special license plate, the ~~director~~ secretary shall

1 consider the following factors:

2 (1) The administrative cost to the Department of Finance and
3 Administration for issuance of a Department of Parks, Heritage, and Tourism
4 special license plate; and

5 (2) The estimated demand for the special license plate requested
6 by the Department of Parks, Heritage, and Tourism.

7
8 SECTION 4720. The introductory language of Arkansas Code § 27-24-
9 1602(c)(1), concerning special license plates and requests from the
10 Department of Parks and Tourism, is amended to read as follows:

11 (c)(1) If a request submitted under subsection (a) of this section is
12 approved, the ~~director~~ secretary shall determine:

13
14 SECTION 4721. Arkansas Code § 27-24-1701 is amended to read as
15 follows:

16 27-24-1701. Authorization.

17 The ~~Director~~ Secretary of the Department of Finance and Administration
18 shall issue a special license plate for conservation districts in the manner
19 and subject to the conditions provided under this subchapter.

20
21 SECTION 4722. The introductory language of Arkansas Code § 27-24-
22 1702(b), concerning special motor vehicle license plates for conservation
23 districts, is amended to read as follows:

24 (b) The ~~Director~~ Secretary of the Department of Finance and
25 Administration shall determine the amount of the costs for the issuance of
26 the special license plate under this section as follows:

27
28 SECTION 4723. Arkansas Code § 27-24-1704 is amended to read as
29 follows:

30 27-24-1704. Rules.

31 The ~~Director~~ Secretary of the Department of Finance and Administration
32 may promulgate rules for the administration of this subchapter.

33
34 SECTION 4724. Arkansas Code § 27-50-201 is amended to read as follows:
35 27-50-201. Provisions deemed cumulative.

36 This subchapter shall be cumulative to the laws in force relating to

1 the functions and duties imposed upon the Department of Arkansas State Police
2 and its successor entities under the provisions of Acts 1953, No. 122, and
3 acts amendatory thereto. It shall also be cumulative to laws in effect that
4 were in effect prior to the enactment of Acts 1953, No. 122, which imposed
5 duties upon the Arkansas Department of Transportation and the Director of the
6 Department of Finance and Administration, as well as their successor entities
7 and officials, which were transferred to the Department of Arkansas State
8 Police under the provisions of Acts 1953, No. 122, as amended.

9
10 SECTION 4725. Arkansas Code § 27-50-204(c), concerning employees of
11 the Arkansas Highway Police Division of the Arkansas Department of
12 Transportation, is amended to read as follows:

13 (c) All moneys coming into the hands of the employees in the
14 enforcement of revenue laws shall be subject to regulations and procedures as
15 the ~~Director~~ Secretary of the Department of Finance and Administration shall
16 direct.

17
18 SECTION 4726. Arkansas Code § 27-50-303(2), concerning nonmoving
19 traffic law violations involving drivers' licenses, is amended to read as
20 follows:

21 (2) Making a false statement to the ~~Director~~ Secretary of the
22 Department of Finance and Administration to obtain a driver's license – Class
23 A misdemeanor as defined under § 5-53-103 of the Arkansas Criminal Code.

24
25 SECTION 4727. Arkansas Code § 27-50-307(b), concerning negligent
26 homicide, is amended to read as follows:

27 (b) The ~~Director~~ Secretary of the Department of Finance and
28 Administration shall revoke the operator's or chauffeur's license of any
29 person convicted of negligent homicide under the provisions of this section.

30
31 SECTION 4728. Arkansas Code § 27-50-407 is amended to read as follows:
32 27-50-407. Annual audit.

33 The records of all officials charged with the duty of collecting
34 penalties as prescribed in this subchapter shall be audited annually by the
35 ~~Director~~ Secretary of the Department of Finance and Administration or his or
36 her designated agents.

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SECTION 4729. Arkansas Code § 27-50-911 is amended to read as follows:
27-50-911. Rules and regulations.

The ~~Director~~ Secretary of the Department of Finance and Administration may promulgate rules and regulations necessary to carry out the provisions of this subchapter.

SECTION 4730. Arkansas Code § 27-51-102(b)(1), concerning penalties and the disposition of fines, is amended to read as follows:

(b)(1) Any offender who shall have been found guilty of any violation of any section of this act and fined and who shall within six (6) months thereafter be convicted of a second violation of such section may be fined in a sum not exceeding double the penalty provided for in this act for a first violation. In addition thereto, he or she may have his or her certificate or license issued by the ~~Director~~ Secretary of the Department of Finance and Administration revoked for a period not exceeding sixty (60) days.

SECTION 4731. Arkansas Code § 27-70-202(a)(2), concerning the Arkansas Highway Revenue Distribution Law, is amended to read as follows:

(2) Taxes levied and collected under the Motor Fuel Tax Law, § 26-55-201 et seq., and the Special Motor Fuels Tax Law, § 26-56-101 et seq., commonly referred to, and denominated by the ~~Director~~ Secretary of the Department of Finance and Administration for tax distribution purposes, as the gasoline tax; and

SECTION 4732. Arkansas Code § 27-70-206(2), concerning the distribution to state funds of all highway revenues, is amended to read as follows:

(2) Next, to the Gasoline Tax Refund Fund, such amount as the ~~Director~~ Secretary of the Department of Finance and Administration shall, from time to time, certify to the Treasurer of State as being necessary to pay approved gasoline tax refund claims under the provisions of §§ 26-55-301 – 26-55-321 [Repealed] and 26-55-401 – 26-55-408, or other applicable law. However, the aggregate total amount of all transfers under this paragraph shall not exceed two million five hundred thousand dollars (\$2,500,000) during any fiscal year; and

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SECTION 4733. Arkansas Code § 27-70-207(b)(3)(B), concerning the distribution to county and city funds, is amended to read as follows:

(B) Seventeen and one-half percent (17.5%) of the amount according to the amount of state motor vehicle license fees collected in the calendar year next preceding any distribution as certified to the Treasurer of State by the ~~Director~~ Secretary of the Department of Finance and Administration, with each county to receive the proportion that the total of fees collected from the county bears to the total of fees collected in the state;

SECTION 4734. Arkansas Code § 27-101-110 is amended to read as follows:

27-101-110. Deposit of funds in State Treasury.

All fees collected by the ~~Director~~ Secretary of the Department of Finance and Administration under the provisions of this chapter shall be deposited as special revenues in the State Treasury to the credit of the Special Revenue Fund Account of the State Apportionment Fund. All these funds shall be credited to the Boating Safety Account Fund, which is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State.

SECTION 4735. Arkansas Code § 27-101-111(a)(2)(C), concerning the distribution of funds, is amended to read as follows:

(C) Thirty-four percent (34%) to the County Aid Fund, which, on or before the tenth of the month following the end of each calendar quarter, shall be remitted by state warrants to the various county treasurers in the proportions thereof as between the respective counties that the total of the fees produced from each county bears to the total of the fees produced from all counties as certified by the ~~Director~~ Secretary of the Department of Finance and Administration to the Treasurer of State; and

SECTION 4736. Arkansas Code § 27-101-303(d), concerning the establishment of a system for identification numbering for all motorboats, is amended to read as follows:

(d) The identification numbers shall be assigned to each county in the

1 state, and it shall be the duty of the ~~Director~~ Secretary of the Department
2 of Finance and Administration to issue the identification numbers to the
3 owners of motorboats in accordance with the provisions of subchapters 1-3 of
4 this chapter.

5

6 SECTION 4737. Arkansas Code § 27-101-304(a), concerning the filing of
7 an application and issuance of a certificate of a hull identification number,
8 is amended to read as follows:

9 (a) The owner of each motorboat for which numbering is required by
10 this state shall file an application for a number within thirty (30) calendar
11 days after the date of purchase with the ~~Director~~ Secretary of the Department
12 of Finance and Administration on forms approved by the Arkansas State Game
13 and Fish Commission.

14

15 SECTION 4738. Arkansas Code § 27-101-304(e)(1), concerning the filing
16 of an application and issuance of a certificate of a hull identification
17 number, is amended to read as follows:

18 (e)(1) Upon receipt of the application in approved form, accompanied
19 by proof that the motorboat has been assessed or listed for assessment and,
20 if it is equipped with more than fifty horsepower (50 hp), or is personal
21 watercraft, is covered by a liability insurance policy issued by an insurance
22 company authorized to do business in this state, the ~~director~~ secretary shall
23 enter the application upon the records of his or her office and issue to the
24 applicant a certificate of number stating the number awarded to the motorboat
25 and the name and address of the owner.

26

27 SECTION 4739. Arkansas Code § 27-101-304(f)(2), concerning the filing
28 of an application and issuance of a certificate of a hull identification
29 number, is amended to read as follows:

30 (2) The duplicate shall be retained as a record by the ~~director~~
31 secretary.

32

33 SECTION 4740. Arkansas Code § 27-101-305(a)(1), concerning the display
34 of motorboat hull numbers, is amended to read as follows:

35 (a)(1) The owner shall procure and attach to each side of the bow of
36 the motorboat numbers conforming to the certificate of number issued to the

1 owner by the ~~Director~~ Secretary of the Department of Finance and
2 Administration.

3

4 SECTION 4741. Arkansas Code § 27-101-306(b) and (c), concerning the
5 numbering period, expiration, and renewal of boat certificates, are amended
6 to read as follows:

7 (b) The ~~Director~~ Secretary of the Department of Finance and
8 Administration shall establish a system in a manner that the expiration dates
9 of the various certificates of numbers will be evenly distributed throughout
10 the year and each year thereafter to the end that boat certificates of
11 numbers will be renewable as uniformly as practicable throughout each of the
12 twelve (12) months of the license year in each year.

13 (c) Upon request, the ~~director~~ secretary shall assign to any owner of
14 two (2) or more boats the same registration period.

15

16 SECTION 4742. Arkansas Code § 27-101-309(a) and (b), concerning the
17 change of boar ownership, are amended to read as follows:

18 (a) Should the ownership of a motorboat change, the new owner shall
19 file an application with the ~~Director~~ Secretary of the Department of Finance
20 and Administration for the transfer of the certificate of operation of the
21 motorboat to the new owner within thirty (30) calendar days after the date of
22 the ownership change.

23 (b) Upon receipt of the application, the ~~director~~ secretary shall
24 cancel the certificate of number issued to the former owner of the motorboat
25 and shall assign the number to the new owner of the motorboat and shall issue
26 a certificate of number to the new owner.

27

28 SECTION 4743. Arkansas Code § 27-101-310 is amended to read as
29 follows:

30 27-101-310. Destroyed or abandoned boats.

31 (a) Whenever any motorboat numbered under the provisions of this
32 subchapter shall be destroyed or abandoned, its owner shall notify the
33 ~~Director~~ Secretary of the Department of Finance and Administration within
34 fifteen (15) days after the destruction or abandonment, and the certificate
35 of number of the motorboat shall be terminated.

36 (b) The ~~director~~ secretary shall notify the Arkansas State Game and

1 Fish Commission of the termination of any certificate of number.

2

3 SECTION 4744. Arkansas Code Title 25, Chapter 43, is amended to add an
4 additional subchapter to read as follows:

5 Subchapter 8 – Department of Health

6

7 25-43-801. Department of Health.

8 There is created the Department of Health as a cabinet-level
9 department.

10

11 25-43-802. State entities transferred to Department of Health.

12 (a) The administrative functions of the following state entities are
13 transferred to the Department of Health by a cabinet-level department
14 transfer:

15 (1) The Advisory Board for Interpreters Between Hearing
16 Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral
17 Deaf, created under § 20-14-804;

18 (2) The Advisory Committee on Healthcare Acquired Infections,
19 created under § 20-9-1204;

20 (3) The Advisory Council to the Arkansas Youth Suicide
21 Prevention Task Force, created under § 20-77-1607;

22 (4) The Arkansas Board of Dispensing Opticians, created under §
23 17-89-201;

24 (5) The Arkansas Board of Examiners in Counseling, created under
25 § 17-27-201;

26 (6) The Arkansas Board of Hearing Instrument Dispensers, created
27 under § 17-84-201;

28 (7) The Arkansas Board of Podiatric Medicine, created under §
29 17-96-201;

30 (8) The Arkansas Commission for the Newborn Umbilical Cord Blood
31 Initiative, created under § 20-8-505;

32 (9) The Arkansas Dietetics Licensing Board, created under § 17-
33 83-201;

34 (10) The Arkansas Minority Health Commission, created under §
35 20-2-102;

36 (11) The Arkansas Orthotics, Prosthetics, and Pedorthics

- 1 Advisory Board, created under § 17-107-201;
2 (12) The Arkansas Psychology Board, created under § 17-97-201;
3 (13) The Arkansas Social Work Licensing Board, created under §
4 17-103-201;
5 (14) The Arkansas Spinal Cord Commission, created under § 20-8-
6 202;
7 (15) The Arkansas State Board of Acupuncture and Related
8 Techniques, created under § 17-102-201;
9 (16) The Arkansas State Board of Athletic Training, created
10 under § 17-93-404;
11 (17) The Arkansas State Board of Chiropractic Examiners, created
12 under § 17-81-201;
13 (18) The Arkansas State Board of Dental Examiners, created under
14 § 17-82-201;
15 (19) The Arkansas State Board of Nursing, created under § 17-87-
16 201;
17 (20) The Arkansas State Board of Pharmacy, created under § 17-
18 92-201;
19 (21) The Arkansas State Board of Physical Therapy, created under
20 § 17-93-201;
21 (22) The Arkansas State Board of Sanitarians, created under §
22 17-43-201;
23 (23) The Arkansas State Medical Board, created under § 17-95-
24 301;
25 (24) The Arkansas Suicide Prevention Council, created under §
26 20-45-302;
27 (25) The Arkansas Surgeon General, created under § 25-43-806;
28 (26) The Arkansas Tobacco Settlement Commission, created under §
29 19-12-117;
30 (27) The Board of Examiners in Speech-Language Pathology and
31 Audiology, created under § 17-100-201;
32 (28) The Breast Cancer Control Advisory Board, created under §
33 20-15-1304;
34 (29) The Cervical Cancer Task Force, created under § 20-9-1102;
35 (30) The Child Health Advisory Committee, created under § 20-7-
36 133;

1 (31) The Cosmetology Technical Advisory Committee, created under
2 § 17-26-201;

3 (32) The Committee on Plumbing Examiners, created under § 17-38-
4 202;

5 (33) The Drinking Water Advisory and Operator Licensing
6 Committee, created under § 17-51-104;

7 (34) The Emergency Medical Services Advisory Council, created
8 under § 20-13-205;

9 (35) The Health Services Permit Agency, created under § 20-8-
10 102;

11 (36) The Health Services Permit Commission, created under § 20-
12 8-104;

13 (37) The Marine Sanitation Advisory Committee, created under §
14 27-101-405;

15 (38) The Massage Therapy Technical Advisory Committee, created
16 under § 17-86-201;

17 (39) The Medical Ionizing Radiation Licensure Committee, created
18 under § 17-106-104;

19 (40) The Prescription Drug Monitoring Program Advisory
20 Committee, created under § 20-7-605;

21 (41) The Prescriptive Authority Advisory Committee, created
22 under § 17-87-205;

23 (42) The State Board of Examiners of Alcoholism and Drug Abuse
24 Counselors, created under § 17-27-404;

25 (43) The State Board of Optometry, created under § 17-90-201;

26 (44) The State Board of Health, created under § 20-7-102;

27 (45) The State Hospice Office, created under § 20-7-117;

28 (46) The State Kidney Disease Commission, created under § 20-15-
29 602;

30 (47) The State Board of Disease Intervention Specialists,
31 created under § 17-98-201;

32 (48) The Tobacco Prevention and Cessation Program, created under
33 § 19-12-113; and

34 (49) The Universal Newborn Hearing Screening, Tracking and
35 Intervention Program and Advisory Board, created under § 20-15-1503.

36 (b) Unless otherwise provided by law, a cabinet-level department

1 transfer under subsection (a) of this section includes all state entities
2 under a state entity transferred to the Department of Health under subsection
3 (a) of this section, including without limitation a division, office,
4 program, or other unit of a state entity transferred to the Department of
5 Health under subsection (a) of this section.

6 (c) Unless otherwise provided by law, a state entity whose
7 administrative functions have been transferred to the Department of Health
8 under subsection (a) of this section shall otherwise continue to exercise the
9 duties of the state entity under the administration of the cabinet-level
10 Department of Health in the same manner as before the creation of the
11 cabinet-level department.

12
13 25-43-803. Secretary of the Department of Health.

14 (a) The executive head of the Department of Health shall be the
15 Secretary of the Department of Health.

16 (b) The secretary shall be appointed by the Governor, subject to
17 confirmation by the Senate, and shall serve at the pleasure of the Governor.

18 (c) Each division of the department shall be under the direction,
19 control, and supervision of the secretary.

20 (d) The secretary may delegate his or her functions, powers, and
21 duties to various divisions or employees of the department as he or she shall
22 deem desirable and necessary for the effective and efficient operation of the
23 department.

24 (e) The secretary may, unless otherwise provided by law:

25 (1) Hire department personnel;

26 (2) Perform or assign duties assigned to the department; and

27 (3) Serve as the director, or the administrative or executive
28 head of any state entity under the administrative control of the department
29 if the secretary meets all statutory requirements for the position.

30
31 25-43-804. Director.

32 (a) The Secretary of the Department of Health may employ a Director of
33 the Department of Health.

34 (b) The secretary may delegate his or her functions, powers, and
35 duties to the director or to other various units or personnel of the
36 Department of Health as he or she shall deem desirable and necessary for the

1 effective and efficient operation of the department.

2 (c)(1) All other personnel of the department shall be employed by and
3 shall serve at the pleasure of the secretary.

4 (2) However, this section does not reduce any right that an
5 employee of the department has under any civil service or merit system.

6 (d) Each unit of the department shall be under the direction, control,
7 and supervision of the secretary.

8
9 25-43-805. Office of Oral Health.

10 (a) The Department of Health shall maintain an Office of Oral Health.

11 (b) The Secretary of the Department of Health may appoint a Director
12 of the Office of Oral Health.

13 (1) The Director of the Office of Oral Health shall be an
14 experienced public health dentist licensed to practice under the Arkansas
15 Dental Practice Act, § 17-82-101 et seq.

16 (2) The Director of the Office of Oral Health shall:

17 (A) Plan, direct, and coordinate all dental public health
18 programs with other local, state, and national health programs;

19 (B) Serve as the department's chief advisor on matters
20 involving oral health; and

21 (C) Plan, implement, and evaluate all oral health programs
22 within the department.

23
24 25-43-806. Arkansas Surgeon General.

25 (a) The Secretary of the Department of Health may employ the Arkansas
26 Surgeon General.

27 (b) If employed by the Secretary of the Department of Health, the
28 Arkansas Surgeon General shall:

29 (1) Be a graduate of a school of medicine recognized by the
30 Arkansas State Medical Board;

31 (2) Be licensed and in good standing with the Arkansas State
32 Medical Board; and

33 (3) Serve as an advisor to the secretary.

34 (c) The Arkansas Surgeon General shall perform the duties required of
35 him or her by the secretary, including without limitation:

36 (1) Reviewing, assessing, and developing health policy options,

1 including insurance coverage, health risk management, disease prevention, and
2 health promotion strategies across state agencies;

3 (2) Providing health policy advice for the secretary and senior
4 state agency officials;

5 (3) Raising awareness of healthcare and public health areas of
6 priority for advancement of the health of the citizens of Arkansas;

7 (4) Reviewing legislative analyses and proposed legislation and
8 creating position statements for the Governor and senior state agency
9 officials;

10 (5) Advising the secretary, senior state agency officials, and
11 governing boards and commissions on policy issues and program
12 accomplishments; and

13 (6) Providing medical review oversight and guidance to health
14 and human services clinical programs upon the request of the secretary.

15
16 25-43-807. Patient care providers – Wages – Required withholding –
17 Fringe benefits.

18 (a) The Department of Health may pay wages and required state
19 withholding, federal withholding, required matching, and other fringe
20 benefits for patient care part-time intermittent contractual personnel who
21 must be employed in order to provide services in the home.

22 (b) These payments will be made from the appropriation for
23 professional fees and services.

24
25 25-43-808. Additional compensation – County health unit administrators.

26 (a) Any employee serving in the capacity of county health unit
27 administrator shall be eligible for up to ten percent (10%) of additional
28 compensation within the grade during the period of time in which the employee
29 occupies the position.

30 (b) Employees on the highest level of their grade shall be eligible
31 for additional compensation in an amount not to exceed five and one-half
32 percent (5.5%) of their current salary upon assuming responsibility, and this
33 amount shall not be construed as exceeding the line item maximum for the
34 grade for that position.

35 (c)(1) The Department of Health shall certify to the Chief Fiscal
36 Officer of the State the assignment of duties of each employee in this

1 position, the length of the assignment, and the location and reason for the
2 assignment.

3 (2) The Chief Fiscal Officer of the State shall approve the
4 request prior to the awarding of additional compensation.

5
6 25-43-809. Office of Health Information Technology - Creation -
7 Purpose - Policy.

8 (a) The Office of Health Information Technology is created within the
9 Department of Health.

10 (b) The coordination of health information technology activities
11 throughout Arkansas by the Office of Health Information Technology is
12 necessary to obtain the maximum potential value from the investment of
13 federal and state resources to increase the use of health information
14 technology.

15 (c) The exchange of health information made possible by the State
16 Health Alliance for Records Exchange can improve the quality of health of
17 Arkansas citizens by reducing the potential for medical errors, reducing the
18 incidence of redundant tests and procedures, improving patient safety, and
19 making the delivery of healthcare services more efficient and affordable.

20 (d) The Office of Health Information Technology and the State Health
21 Alliance for Records Exchange shall respect and safeguard each person's
22 privacy interests in his or her health and medical information.

23 (e) The Office of Health Information Technology is authorized to
24 transfer the State Health Alliance for Records Exchange to a nonprofit
25 corporation.

26
27 25-43-810. Definitions.

28 As used in §§ 25-43-809 - 25-43-812:

29 (1) "Agency" means any agency, board, commission, public
30 instrumentality, political subdivision, or any of the foregoing entities
31 acting on behalf of the State of Arkansas that store, gather, or generate
32 health information;

33 (2) "Deidentified" means the same as the meaning under the
34 Health Insurance Portability and Accountability Act of 1996, Public Law No.
35 104-191;

36 (3) "Health information" means any information, whether oral or

1 recorded in any form or medium, that:

2 (A) Is created or received by:

3 (i) A provider of health care;

4 (ii) A health plan;

5 (iii) A public health authority;

6 (iv) An employer;

7 (v) A health insurer;

8 (vi) A school or university; or

9 (vii) A healthcare clearinghouse; and

10 (B) Relates to the:

11 (i) Past, present, or future physical or mental
12 health or condition of an individual;

13 (ii) Provision of health care to an individual; or

14 (iii) Past, present, or future payment for the
15 provision of health care to an individual;

16 (4) "Health information exchange" means the electronic movement
17 of health-related information among organizations according to nationally
18 recognized standards;

19 (5) "Health information technology" means the application of
20 information processing involving both computer hardware and software and
21 other technology devices that deal with the storage, retrieval, sharing, and
22 use of healthcare information, data, and knowledge for communication and
23 decision-making;

24 (6) "Identified" means the same as the meaning under the Health
25 Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;

26 (7) "Nonprofit corporation" means a corporation in which no part
27 of the income is distributable to its members, directors, or officers as
28 under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.; and

29 (8) "State Health Alliance for Records Exchange" means the
30 entity responsible for the processes and procedures that enable the
31 electronic exchange of interoperable health information in Arkansas.

32
33 25-43-811. Duties and responsibilities of the Office of Health
34 Information Technology.

35 (a) The Office of Health Information Technology shall coordinate the
36 health information technology initiatives of the state with relevant

1 executive branch agencies, including without limitation state boards,
2 commissions, nonprofit corporations, and institutions of higher education.

3 (b) The Office of Health Information Technology Coordinator shall be
4 selected and serve in a manner prescribed by the Secretary of the Department
5 of Health.

6 (c) The office shall:

7 (1) Assure the effective coordination and collaboration of
8 health information technology planning, development, implementation, and
9 financing;

10 (2) Review all health information technology-related grant
11 applications before submission to funding entities;

12 (3) Accept, receive, retain, disburse, and administer any state
13 special or general revenue funds or federal funds specifically appropriated
14 for health information technology;

15 (4) Make contracts and execute all instruments necessary or
16 convenient for carrying out its business;

17 (5) Recommend to the State Board of Health regarding rules
18 necessary to carry out the policies and objectives of this chapter;

19 (6) Plan, establish, and operate the State Health Alliance for
20 Records Exchange until the time when the operational responsibility and
21 authority for the State Health Alliance for Records Exchange is transferred
22 to a nonprofit corporation; and

23 (7)(A) Establish reasonable fees or charges for the use of the
24 State Health Alliance for Records Exchange to fund the operational costs of
25 the State Health Alliance for Records Exchange and the office.

26 (B) Fees or charges established under subdivision
27 (c)(7)(A) of this section shall be set with the input and guidance of the
28 users of the State Health Alliance for Records Exchange, stakeholders, and
29 other interested parties.

30 (C) Fees or charges established under subdivision
31 (c)(7)(A) of this section shall not exceed the total cost of operating the
32 State Health Alliance for Records Exchange, not including staffing costs for
33 the State Health Alliance for Records Exchange and the office.

34 (D) Users of data under this chapter shall be charged in a
35 manner that is proportional to their use of the State Health Alliance for
36 Records Exchange.

1 (E) Revenue generated by the fees or charges under
2 subdivision (c)(7)(A) of this section shall be deposited into the Health
3 Information Technology Fund, § 19-5-1244.

4
5 25-43-812. State Health Alliance for Records Exchange – Duties.

6 (a) The State Health Alliance For Records Exchange shall:

7 (1) Serve as the official health information exchange for the
8 State of Arkansas;

9 (2) Be organized for the purpose of improving the health of
10 Arkansans by:

11 (A) Promoting efficient and effective communication among
12 multiple healthcare providers, including without limitation hospitals,
13 physicians, payers, employers, pharmacies, laboratories, and other healthcare
14 entities;

15 (B) Creating efficiencies in healthcare costs by
16 eliminating redundancy in data capture and storage and reducing
17 administrative, billing, and data collection costs;

18 (C) Creating the ability to monitor community health
19 status; and

20 (D) Providing reliable information to healthcare consumers
21 and purchasers regarding the quality and cost-effectiveness of health care,
22 health plans, and healthcare providers;

23 (3)(A) Until a nonprofit corporation operates the State Health
24 Alliance for Records Exchange, the State Health Alliance for Records Exchange
25 shall be established and operated by the Office of Health Information
26 Technology with the advice of the Health Information Exchange Council,
27 consisting of the following members appointed by the Secretary of the
28 Department of Health:

29 (i) The Office of Health Information Technology
30 Coordinator;

31 (ii) A representative of the Department of Finance
32 and Administration;

33 (iii) A representative of the Department of Human
34 Services;

35 (iv) A representative of the Division of Information
36 Systems;

- 1 (v) A representative of the health insurance
2 industry;
- 3 (vi) A representative of the Arkansas Foundation for
4 Medical Care, Inc.;
- 5 (vii) A representative of the Arkansas Hospital
6 Association, Inc.;
- 7 (viii) A representative of the Arkansas Medical
8 Society, Inc.;
- 9 (ix) A representative of the Arkansas Minority
10 Health Commission;
- 11 (x) A representative of the Arkansas Nurses
12 Association;
- 13 (xi) A representative of the Division of Science and
14 Technology of the Arkansas Economic Development Commission;
- 15 (xii) A representative of the Arkansas Pharmacist's
16 Association;
- 17 (xiii) A representative of the business community;
18 (xiv) A representative of the Community Health
19 Centers of Arkansas, Inc.;
- 20 (xv) A representative of the University of Arkansas
21 for Medical Sciences;
- 22 (xvi) A representative of the Arkansas Health Care
23 Association; and
- 24 (xvii) Two (2) healthcare consumers.

25 (b) The Chair of the Health Information Exchange Council shall be
26 elected by the members of the council.

27 ~~(c) All members will serve until the operational responsibility and~~
28 ~~authority for the State Health Alliance for Records Exchange is transferred~~
29 ~~to a nonprofit corporation~~ The Department of Health shall promulgate rules to
30 establish the terms of all members serving on the Health Information Exchange
31 Council.

32 (d)(1) The State Health Alliance for Records Exchange is not a
33 healthcare provider and is not subject to claims under § 16-114-201 et seq.

34 (2) A person who participates in or subscribes to the services
35 or information provided by the State Health Alliance for Records Exchange
36 shall not be liable in any action for damages or cost of any nature that

1 results solely from the person's use or failure to use the State Health
2 Alliance for Records Exchange information or data that was imputed or
3 retrieved under the Health Insurance Portability and Accountability Act of
4 1996, as it existed on January 1, 2011, and regulations adopted under the
5 act, state confidentiality laws and the rules of the State Health Alliance
6 for Records Exchange as approved by the Office of Health Information
7 Technology or the governing body of the nonprofit corporation.

8 (3) A person shall not be subject to antitrust or unfair
9 competition liability based on membership or participation in the State
10 Health Alliance for Records Exchange, which provides an essential
11 governmental function for the public health and safety and enjoys state
12 sovereign immunity.

13 (e) A person who provides information and data to the State Health
14 Alliance for Records Exchange retains a property right in the information or
15 data but grants to the other participants or subscribers a nonexclusive
16 license to retrieve and use that information or data under the Health
17 Insurance Portability and Accountability Act of 1996, as it existed on
18 January 1, 2011, and any amendments and regulations adopted under the act,
19 state confidentiality laws, and the rules of the State Health Alliance for
20 Records Exchange.

21 (f) All processes or software developed, designed, or purchased by the
22 State Health Alliance for Records Exchange shall remain the property of the
23 State Health Alliance for Records Exchange subject to use by participants or
24 subscribers under the rules of the State Health Alliance for Records
25 Exchange.

26 (g) Patient-specific protected health information shall be disclosed
27 only in accordance with the patient's authorization or in compliance with
28 state confidentiality laws and the Health Insurance Portability and
29 Accountability Act of 1996, as it existed on January 1, 2011, and regulations
30 under the act.

31 (h) Executive branch agencies, including state boards, commissions,
32 nonprofit corporations, and institutions of higher education that implement,
33 acquire, or upgrade health information technology systems shall use health
34 information technology systems and products that meet minimum standards
35 adopted by the State Health Alliance for Records Exchange.

36 (i) All identified or deidentified health information contained in,

1 stored in, submitted to, transferred by, or released from the State Health
2 Alliance for Records Exchange is not disclosable under applicable state or
3 federal law except to:

4 (1) A healthcare provider; or

5 (2) Other authorized person or entity as described by policies
6 and rules promulgated by the State Board of Health or the State Alliance for
7 Records Exchange.

8 (j)(1) Upon the transfer to a nonprofit corporation, the State Health
9 Alliance for Records Exchange shall be governed under the bylaws and
10 incorporation documents of the nonprofit corporation.

11 (2) The bylaws and incorporation documents of the nonprofit
12 corporation shall further only the objectives and policies set forth in §§
13 25-43-809 - 25-43-812.

14
15 SECTION 4745. Arkansas Code § 4-97-103(2), concerning the definition
16 of "authorized person" under the Arkansas Retail Pet Store Consumer
17 Protection Act of 1991, is amended to read as follows:

18 (2) "Authorized person" means the ~~Director~~ Secretary of the
19 Department of Health or his or her delegate, or any law enforcement officer;

20
21 SECTION 4746. Arkansas Code § 5-64-101(3)(B)(i), concerning the
22 definition of "anabolic steroid" under the Uniform Controlled Substances Act,
23 is amended to read as follows:

24 (B)(i) "Anabolic steroid" does not include an anabolic
25 steroid that is expressly intended for administration through an implant to
26 cattle or another nonhuman species and that has been approved by the ~~Director~~
27 Secretary of the Department of Health for such administration.

28
29 SECTION 4747. Arkansas Code § 5-64-201 is amended to read as follows:
30 5-64-201. ~~Director's~~ Secretary's duties.

31 (a)(1)(A)(i) The ~~Director~~ Secretary of the Department of Health shall
32 administer this chapter and may add a substance to or delete or reschedule
33 any substance enumerated in a schedule under the procedures of the Arkansas
34 Administrative Procedure Act, § 25-15-201 et seq.

35 (ii) The ~~director~~ secretary may promulgate without
36 action or approval of the State Board of Health an emergency rule under the

1 procedures of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
2 that adds a substance to or deletes a substance from a schedule or
3 reschedules a substance.

4 (iii) If the ~~director~~ secretary adds, deletes, or
5 reschedules a substance through an emergency rule under the procedures of the
6 Arkansas Administrative Procedure Act, § 25-15-201 et seq., the emergency
7 rule may be effective for no longer than one hundred eighty (180) days.

8 (B) However, the ~~director~~ secretary shall not delete any
9 substance from a schedule in effect on July 20, 1979, without prior approval
10 by the Legislative Council.

11 (2) In making a determination regarding a substance, the
12 ~~director~~ secretary shall consider the following:

13 (A) The actual or relative potential for abuse;

14 (B) The scientific evidence of its pharmacological effect,
15 if known;

16 (C) The state of current scientific knowledge regarding
17 the substance;

18 (D) The history and current pattern of abuse;

19 (E) The scope, duration, and significance of abuse;

20 (F) The risk to public health;

21 (G) The potential of the substance to produce psychic or
22 physiological dependence liability; and

23 (H) Whether the substance is an immediate precursor of a
24 substance already controlled under this subchapter.

25 (b) After considering the factors enumerated in subsection (a) of this
26 section, the ~~director~~ secretary shall make findings with respect to the
27 factors and issue a rule controlling the substance if he or she finds the
28 substance has a potential for abuse.

29 (c) If the ~~director~~ secretary designates a substance as an immediate
30 precursor, a substance that is a precursor of the controlled precursor is not
31 subject to control solely because it is a precursor of the controlled
32 precursor.

33 (d)(1) If any substance is designated as a controlled substance under
34 federal law and notice of the designation is given to the ~~director~~ secretary,
35 the ~~director~~ secretary shall similarly control the substance under this
36 chapter after the expiration of thirty (30) days from publication in the

1 Federal Register of a final order designating a substance as a controlled
2 substance unless within that thirty-day period the ~~director~~ secretary objects
3 to inclusion.

4 (2)(A) If the ~~director~~ secretary objects to inclusion, the
5 ~~director~~ secretary shall publish the reasons for objection and afford any
6 interested party an opportunity to be heard.

7 (B) At the conclusion of the hearing, the ~~director~~
8 secretary shall publish his or her decision.

9 (C) Any person aggrieved by a decision of the ~~director~~
10 secretary is entitled to judicial review in the Pulaski County Circuit Court.

11 (3) Upon publication of objection to inclusion under this
12 chapter by the ~~director~~ secretary, control under this chapter is stayed until
13 the ~~director~~ secretary publishes his or her decision or, if judicial review
14 is sought, the inclusion is stayed until adjudication of the judicial review.

15 (4) If notice has been given to the ~~director~~ secretary that the
16 United States Food and Drug Administration has designated, rescheduled, or
17 descheduled a marijuana-derived substance under federal law and approved for
18 marketing the marijuana-derived substance as a prescription medication, the
19 ~~director~~ secretary shall consider the designation, rescheduling, or
20 descheduling of the marijuana-derived substance under this chapter.

21 (e) Authority to control under this section does not extend to
22 distilled spirits, wine, malt beverages, or tobacco.

23 (f) The ~~director~~ secretary shall schedule gamma-hydroxybutyrate and
24 its known precursors and analogs in a manner consistent with the procedures
25 outlined in this section.

26
27 SECTION 4748. Arkansas Code § 5-64-203 is amended to read as follows:
28 5-64-203. Criteria for Schedule I.

29 The ~~Director~~ Secretary of the Department of Health shall place a
30 substance in Schedule I if he or she finds that the substance has:

31 (1) High potential for abuse; and

32 (2) No accepted medical use in treatment in the United States or
33 lacks accepted safety for use in treatment under medical supervision.

34
35 SECTION 4749. Arkansas Code § 5-64-204 is amended to read as follows:
36 5-64-204. Substances in Schedule I.

1 (a) In addition to any substance placed in Schedule I by the ~~Director~~
2 Secretary of the Department of Health under § 5-64-203, any material,
3 compound, mixture, or preparation, whether produced directly or indirectly
4 from a substance of vegetable origin or independently by means of chemical
5 synthesis or by a combination of extraction and chemical synthesis, that
6 contains any quantity of the following substances, or that contains any of
7 the following substances' analogs, salts, isomers, and salts of isomers when
8 the existence of the analogs, salts, isomers, and salts of isomers is
9 possible within the specific chemical designation, with the following
10 chemical structure is included in Schedule I:

- 11 (1) 4-Methylmethcathinone (Mephedrone);
- 12 (2) Methylenedioxypropylvalerone (MDPV);
- 13 (3) 3,4-Methylenedioxy-N-methylcathinone (Methylone);
- 14 (4) 4-Methoxymethcathinone;
- 15 (5) 3-Fluoromethcathinone;
- 16 (6) 4-Fluoromethcathinone; or
- 17 (7) A compound, unless listed in another schedule or a legend
18 drug, that is structurally derived from 2-Amino-1-phenyl-1-propanone by
19 modification or by substitution:

20 (A) In the phenyl ring to any extent with alkyl, alkoxy,
21 alkylendioxy, haloalkyl or halide substituents, whether or not further
22 substituted in the phenyl ring by one (1) or more other univalent
23 substituents;

24 (B) At the 3-position with an alkyl substituent; or

25 (C) At the nitrogen atom with alkyl or dialkyl groups, or
26 by inclusion of the nitrogen atom in a cyclic structure.

27 (b) The ~~Director~~ Secretary of the Department of Health shall not
28 delete a controlled substance listed in this section from Schedule I.

29
30 SECTION 4750. Arkansas Code § 5-64-205 is amended to read as follows:
31 5-64-205. Criteria for Schedule II.

32 The ~~Director~~ Secretary of the Department of Health shall place a
33 substance in Schedule II if he or she finds that:

- 34 (1) The substance has high potential for abuse;
- 35 (2) The substance has currently accepted medical use in
36 treatment in the United States or currently accepted medical use with severe

1 restrictions; and

2 (3) The abuse of the substance may lead to severe psychic or
3 physical dependence.

4

5 SECTION 4751. Arkansas Code § 5-64-207 is amended to read as follows:

6 5-64-207. Criteria for Schedule III.

7 The ~~Director~~ Secretary of the Department of Health shall place a
8 substance in Schedule III if he or she finds that:

9 (1) The substance has a potential for abuse less than the
10 substances listed in Schedules I and II;

11 (2) The substance has currently accepted medical use in
12 treatment in the United States; and

13 (3) Abuse of the substance may lead to moderate or low physical
14 dependence or high psychological dependence.

15

16 SECTION 4752. Arkansas Code § 5-64-209 is amended to read as follows:

17 5-64-209. Criteria for Schedule IV.

18 The ~~Director~~ Secretary of the Department of Health shall place a
19 substance in Schedule IV if he or she finds that:

20 (1) The substance has a low potential for abuse relative to
21 substances in Schedule III;

22 (2) The substance has currently accepted medical use in
23 treatment in the United States; and

24 (3) Abuse of the substance may lead to limited physical
25 dependence or psychological dependence relative to the substances in Schedule
26 III.

27

28 SECTION 4753. Arkansas Code § 5-64-211 is amended to read as follows:

29 5-64-211. Criteria for Schedule V.

30 The ~~Director~~ Secretary of the Department of Health shall place a
31 substance in Schedule V if he or she finds that:

32 (1) The substance has low potential for abuse relative to the
33 controlled substances listed in Schedule IV;

34 (2) The substance has currently accepted medical use in
35 treatment in the United States; and

36 (3) The substance has limited physical dependence or

1 psychological dependence liability relative to the controlled substances
2 listed in Schedule IV.

3
4 SECTION 4754. Arkansas Code § 5-64-212(a), concerning substances in
5 Schedule V under the Uniform Controlled Substances Act, is amended to read as
6 follows:

7 (a) An ephedrine combination product, pseudoephedrine, and
8 phenylpropanolamine, as defined in § 5-64-1105, are designated Schedule V
9 controlled substances in addition to the drugs and other substances listed in
10 Schedule V of the List of Controlled Substances for the State of Arkansas
11 promulgated by the ~~Director~~ Secretary of the Department of Health.

12
13 SECTION 4755. Arkansas Code § 5-64-212(c), concerning substances in
14 Schedule V under the Uniform Controlled Substances Act, is amended to read as
15 follows:

16 (c) The ~~director~~ secretary may reschedule a product described in
17 subdivision (b)(1) or subdivision (b)(2) of this section if it is determined
18 that the conversion of the active ingredient in the product into
19 methamphetamine or its salts or precursors is feasible.

20
21 SECTION 4756. Arkansas Code § 5-64-214 is amended to read as follows:
22 5-64-214. Criteria for Schedule VI.

23 The ~~Director~~ Secretary of the Department of Health shall place a
24 substance in Schedule VI if he or she finds that:

25 (1) The substance is not currently accepted for medical use in
26 treatment in the United States;

27 (2) There is lack of accepted safety for use of the drug or
28 other substance even under direct medical supervision;

29 (3) The substance has relatively high psychological or
30 physiological dependence liability, or both; and

31 (4) Use of the substance presents a definite risk to public
32 health.

33
34 SECTION 4757. Arkansas Code § 5-64-215(a), the introductory language
35 concerning the substances in Schedule VI under the Uniform Controlled
36 Substances Act, is amended to read as follows:

1 (a) In addition to any substance placed in Schedule VI by the ~~Director~~
2 Secretary of the Department of Health under § 5-64-214, any material,
3 compound, mixture, or preparation, whether produced directly or indirectly
4 from a substance of vegetable origin or independently by means of chemical
5 synthesis, or by a combination of extraction and chemical synthesis, that
6 contains any quantity of the following substances, or that contains any of
7 their salts, isomers, and salts of isomers when the existence of the salts,
8 isomers, and salts of isomers is possible within the specific chemical
9 designation, is included in Schedule VI:

10
11 SECTION 4758. Arkansas Code § 5-64-215(b), concerning the substances
12 in Schedule VI under the Uniform Controlled Substances Act, is amended to
13 read as follows:

14 (b) However, the ~~director~~ secretary shall not delete a controlled
15 substance listed in this section from Schedule VI.

16
17 SECTION 4759. Arkansas Code § 5-64-216 is amended to read as follows:
18 5-64-216. Schedule revisions.

19 The ~~Director~~ Secretary of the Department of Health shall revise and
20 republish the schedules annually.

21
22 SECTION 4760. Arkansas Code § 5-64-414(c), concerning the controlled
23 substance analog under the Uniform Controlled Substances Act, is amended to
24 read as follows:

25 (c) Within ten (10) days after the initiation of prosecution with
26 respect to a controlled substance analog by indictment or information, the
27 prosecuting attorney shall notify the ~~Director~~ Secretary of the Department of
28 Health of information relevant to emergency scheduling as provided for in §
29 5-64-201(d).

30
31 SECTION 4761. Arkansas Code § 5-64-415(i)(5), concerning drug
32 precursors under the Uniform Controlled Substances Act, is amended to read as
33 follows:

34 (5) The Department of Health may authorize a manufacturer,
35 wholesaler, retailer, or other person to submit a comprehensive monthly
36 report instead of the report required by subdivision (i)(2)(A) of this

1 section if the ~~Director~~ Secretary of the Department of Health determines
2 that:

3 (A) There is a pattern of regular supply and purchase of
4 the drug precursor between the furnisher and the recipient; or

5 (B) The recipient has established a record of utilization
6 of the drug precursor solely for a lawful purpose.

7

8 SECTION 4762. Arkansas Code § 5-64-501 is amended to read as follows:
9 5-64-501. Powers of officials generally.

10 Any law enforcement officer, any person authorized to enforce this
11 chapter, or any employee of the Department of Health designated by the
12 ~~Director~~ Secretary of the Department of Health to conduct an examination,
13 investigation, or inspection under this chapter relating to a controlled
14 substance or to a counterfeit drug may:

15 (1) Carry a firearm in the performance of his or her official
16 duties;

17 (2) Execute and serve a search warrant, arrest warrant,
18 administrative inspection warrant, subpoena, or summons issued under the
19 authority of this state;

20 (3) Make an arrest without warrant for any offense under this
21 chapter committed in his or her presence, or if he or she has probable cause
22 to believe that the person to be arrested has committed a violation of this
23 chapter that may constitute a felony;

24 (4) Make a seizure of property pursuant to this chapter; or

25 (5) Perform any other law enforcement duty as the ~~director~~
26 secretary designates.

27

28 SECTION 4763. Arkansas Code § 5-64-504(a)(1), concerning
29 intergovernmental cooperation and the identities of patients and research
30 subjects, is amended to read as follows:

31 (a)(1) The ~~Director~~ Secretary of the Department of Health shall
32 cooperate with federal and any other state agency in discharging the agency's
33 responsibilities concerning traffic in controlled substances and in
34 suppressing the abuse of controlled substances.

35

36 SECTION 4764. Arkansas Code § 5-64-507(a), concerning the

1 conclusiveness of findings by the Department of Health, is amended to read as
2 follows:

3 (a) Any final determination, finding, or conclusion of the ~~Director~~
4 Secretary of the Department of Health under this chapter is a final and
5 conclusive decision of the matter involved.

6

7 SECTION 4765. Arkansas Code § 5-64-508(d)(1), concerning educational
8 and research programs designed to prevent and deter misuse and abuse of
9 controlled substances, is amended to read as follows:

10 (d)(1) The ~~Director~~ Secretary of the Department of Health may
11 authorize a person engaged in research on the use and effects of a controlled
12 substance to withhold the names and other identifying characteristics of
13 individuals who are the subjects of the research.

14

15 SECTION 4766. Arkansas Code § 5-64-508(e)(1), concerning educational
16 and research programs designed to prevent and deter misuse and abuse of
17 controlled substances, is amended to read as follows:

18 (e)(1) The ~~director~~ secretary may authorize the possession and
19 distribution of a controlled substance by a person engaged in research.

20

21 SECTION 4767. Arkansas Code § 5-64-703 is amended to read as follows:

22 5-64-703. Authority to make inspections.

23 In carrying out the functions under this chapter, the ~~Director~~
24 Secretary of the Department of Health or his or her duly authorized agent may
25 enter a controlled premises and conduct an administrative inspection of the
26 controlled premises.

27

28 SECTION 4768. Arkansas Code § 5-64-1003 is amended to read as follows:

29 5-64-1003. Inspection of records.

30 A record maintained pursuant to this subchapter is subject to
31 inspection by any law enforcement officer of this state or any employee of
32 the Department of Health designated by the ~~Director~~ Secretary of the
33 Department of Health to conduct an examination, investigation, or inspection
34 under this chapter relating to a controlled substance, counterfeit drug, or
35 precursor chemical.

36

1
2 SECTION 4769. Arkansas Code § 6-81-1202(a)(4), concerning the Graduate
3 Nurse Educator Loan and Scholarship Board, is amended to read as follows:

4 (4) The ~~Director~~ Secretary of the Department of Health or the
5 ~~director's secretary's~~ secretary's designee; and

6
7 SECTION 4770. Arkansas Code Title 11, Chapter 5, Subchapter 2, is
8 repealed.

9 ~~Subchapter 2—Industrial Health Service Act~~

10
11 ~~11-5-201.—Title.~~

12 ~~This subchapter shall be cited as the “Industrial Health Service Act of~~
13 ~~1947”.~~

14
15 ~~11-5-202.—Exception.~~

16 ~~Nothing in this subchapter shall be construed as applying to the coal~~
17 ~~mining industry.~~

18
19 ~~11-5-203.—Penalty.~~

20 ~~(a)(1) Any person, firm, or corporation who shall neglect or refuse to~~
21 ~~comply with the provisions of this subchapter shall be guilty of a~~
22 ~~misdemeanor and upon conviction shall be punished by a fine of not less than~~
23 ~~ten dollars (\$10.00) nor more than one hundred dollars (\$100) for each~~
24 ~~offense.~~

25 ~~(2) Each day any employer neglects or refuses to comply with the~~
26 ~~provisions of this subchapter shall constitute a separate offense.~~

27 ~~(b) It shall be the duty of the prosecuting attorney to prosecute~~
28 ~~violations of this subchapter.~~

29
30 ~~11-5-204.—Division of Industrial Hygiene—Creation—Duties.~~

31 ~~(a) The Division of Industrial Hygiene is established as one of the~~
32 ~~offices over which the State Board of Health maintains supervision.~~

33 ~~(b) The division shall investigate places of employment and study~~
34 ~~those conditions which might be responsible for ill health of the industrial~~
35 ~~worker.~~

36

1 ~~11-5-205. State Board of Health—Rules and regulations.~~

2 ~~It shall be the duty of the State Board of Health to adopt rules and~~
3 ~~regulations pertaining to the control of industrial health hazards, including~~
4 ~~and concerning the maximum allowable limits of materials, ventilation~~
5 ~~requirements, water supplies, excreta disposal facilities, washing and shower~~
6 ~~facilities, and other matters pertaining to the maintenance of the health of~~
7 ~~the worker.~~

8
9 ~~11-5-206. Director of Department of Health—Access to certain~~
10 ~~buildings.~~

11 ~~The Director of the Department of Health or his or her duly authorized~~
12 ~~deputy shall have access to any firm, corporation, industry, or manufacturing~~
13 ~~plant for the proper discharge of his or her official duties.~~

14
15 ~~11-5-207. Use of injurious material, process, or condition prohibited.~~

16 ~~(a) It shall be a violation of this subchapter for any employer to use~~
17 ~~or permit to be used in the conduct of his or her business, manufacturing~~
18 ~~establishment, or other place of employment any material, process, or~~
19 ~~condition known to have an adverse effect on health.~~

20 ~~(b) However, that material, process, or condition may be used when it~~
21 ~~is operated, handled, or used in such a manner that injury to the health of~~
22 ~~the worker will not occur.~~

23 ~~(c) It shall be the duty of the Division of Industrial Hygiene to~~
24 ~~evaluate and determine whether the material, process, or condition is being~~
25 ~~operated, handled, or used in such a manner that injury to the health of the~~
26 ~~worker will not occur.~~

27
28 ~~11-5-208. Use of information from studies or investigations.~~

29 ~~(a) Information obtained from studies or upon investigations made in~~
30 ~~accordance with the provisions of this subchapter shall not be admissible as~~
31 ~~evidence in any action at law to recover damages for personal injury or in~~
32 ~~any action under the Workers' Compensation Law, § 11-9-101 et seq.~~

33 ~~(b) By mutual agreement between the Division of Industrial Hygiene and~~
34 ~~those charged with the administration of the Workers' Compensation Law, § 11-~~
35 ~~9-101 et seq., studies at the request of the latter may be instituted in~~
36 ~~industries, and the results of these studies may be reported to the~~

1 ~~administrators.~~

2

3 SECTION 4771. Arkansas Code § 14-15-307(a)(2)(G), concerning the
4 Coroner's Advisory Task Force creation, powers, and duties, is amended to
5 read as follows:

6 (G) The ~~Director~~ Secretary of the Department of Health or
7 his or her designee; and

8

9 SECTION 4772. Arkansas Code § 14-229-101(b)(8) and (9), concerning the
10 creation and members of the Individual Sewage Systems Advisory Committee, are
11 amended to read as follows:

12 (8) Three (3) members involved with the individual sewage
13 disposal systems program of the Department of Health, to be appointed by the
14 ~~Director~~ Secretary of the Department of Health;

15 (9) The Director of the ~~Arkansas Department~~ Division of
16 Environmental Quality or a designee;

17

18 SECTION 4773. Arkansas Code § 14-229-101(e)(3), concerning the
19 Individual Sewage Disposal Systems Advisory Committee, is amended to read as
20 follows:

21 (3) The advisory committee shall meet upon call by the chair, at
22 the request of any five (5) members of the committee stated in writing, at
23 the request of the Director of the Division of Environmental Health
24 Protection of the Department of Health, or upon call by the ~~Director~~
25 Secretary of the Department of Health.

26

27 SECTION 4774. Arkansas Code § 14-229-102(1), concerning the Individual
28 Sewage Disposal Systems Advisory Committee, is amended to read as follows:

29 (1) To advise with and make recommendations to the ~~Director~~
30 Secretary of the Department of Health and the Director of the Division of
31 Environmental Health Protection of the Department of Health, concerning the
32 utilization and application of alternate and experimental individual sewage
33 disposal systems;

34

35 SECTION 4775. Arkansas Code § 14-262-119 is amended to read as
36 follows:

1 14-262-119. County Organization of State Aid Fund.

2 (a)(1) In addition to any and all other appropriations made for the
3 State Board of Health, there may be made an appropriation which shall be
4 known as the County Organization of State Aid Fund, which shall be expended
5 exclusively for this purpose.

6 (2) The fund shall be available to any county whenever the
7 county shall make an appropriation of an adequate sum of money, to be
8 approved by the ~~Director~~ Secretary of the Department of Health, necessary to
9 do effective work.

10 (3) All counties which shall be found organized for this work on
11 July 1 of each year shall receive priority in the allocation of funds.

12 (b)(1) Before any county shall receive state aid under the provisions
13 of this section, a cooperative budget shall be prepared by the county judge,
14 the ~~Director~~ Secretary of the Department of Health, and any other agency
15 which may be contributing and shall be signed by each.

16 (2) The ~~Director~~ Secretary of the Department of Health shall
17 draw vouchers against the State Aid Fund, as provided in the cooperative
18 budget, in the usual manner.

19
20 SECTION 4776. Arkansas Code § 17-27-406(e), concerning the powers and
21 duties of the State Board of Examiners of Alcoholism and Drug Abuse
22 Counselors, is amended to read as follows:

23 (e) The ~~board~~ Department of Health may employ any persons it deems
24 necessary to carry on the work of the board and the department shall define
25 their duties and fix their compensation within the limits prescribed by law.

26
27 SECTION 4777. Arkansas Code § 17-43-203(d), concerning the duties and
28 powers of the Arkansas State Board of Sanitarians, is repealed.

29 ~~(d) The board may employ and fix the compensation of assistants,
30 clerks, stenographers, typists, and other employees to serve at the pleasure
31 of the board, and acquire office space, furniture, supplies, equipment, and
32 other proper conveniences reasonably necessary for the performance of their
33 duties under this chapter.~~

34
35 SECTION 4778. Arkansas Code § 17-43-204(b), concerning the disposition
36 of funds by the Arkansas State Board of Sanitarians, is amended to read as

1 follows:

2 (b) The board shall make a report annually to the ~~Governor~~ Secretary
3 of the Department of Health, showing all receipts and disbursements of moneys
4 and a summary of all business transacted during the year.

5

6 SECTION 4779. Arkansas Code § 17-43-207(a)(1), concerning the transfer
7 of the Arkansas State Board of Sanitarians, is amended to read as follows:

8 (a)(1) Effective July 1, 2013, the Arkansas State Board of Sanitarians
9 is transferred to the Department of Health and shall be administered by the
10 ~~Director~~ Secretary of the Department of Health.

11

12 SECTION 4780. Arkansas Code § 17-51-104(g), concerning the creation of
13 the Drinking Water Advisory and Operator Licensing Committee, is amended to
14 read as follows:

15 (g) The member of the committee who is a member of the staff of the
16 Engineering Section of the Department of Health shall serve at the pleasure
17 of the ~~Director~~ Secretary of the Department of Health.

18

19 SECTION 4781. Arkansas Code § 17-80-101(c), concerning the filing and
20 compilation of licensing information of the Arkansas State Board of
21 Chiropractic Examiners, is amended to read as follows:

22 (c) The ~~Director~~ Secretary of the Department of Health shall report
23 the deaths of all persons licensed by the boards named in subsection (a) of
24 this section to the Secretary of State within a reasonable time after the
25 information has been received in his or her office. The Secretary of State
26 shall thereupon note after the name of the decedent the fact of his or her
27 death and the date thereof.

28

29 SECTION 4782. Arkansas Code § 17-81-204(a), concerning the
30 organization and meetings of the Arkansas State Board of Chiropractic
31 Examiners, is amended to read as follows:

32 (a) The ~~Arkansas State Board of Chiropractic Examiners~~ Department of
33 Health shall maintain and operate an office for the administration of ~~its~~ the
34 business of the Arkansas State Board of Chiropractic Examiners.

35

36 SECTION 4783. Arkansas Code § 17-81-205 is amended to read as follows:

1 17-81-205. Minutes – Records.

2 (a) The ~~Executive~~ Director of the Arkansas State Board of Chiropractic
3 Examiners shall keep a record of the minutes of the meetings of the board and
4 a record of the names of all persons making application for license under the
5 provisions of this chapter together with a record of the action of the board
6 thereon.

7 (b) The ~~executive~~ director shall also keep a roll of the names of all
8 licensed and deceased chiropractors who have been licensed to practice in the
9 State of Arkansas.

10 (c) The record shall at all reasonable times be open for public
11 inspection.

12

13 SECTION 4784. Arkansas Code § 17-81-206(a)(1), concerning the duties
14 of the Arkansas State Board of Chiropractic Examiners, is amended to read as
15 follows:

16 (a)(1) The Arkansas State Board of Chiropractic Examiners is empowered
17 to incur whatever expenses ~~it~~ the board may deem necessary or expedient in
18 performing its functions. ~~It may employ whatever assistants it may deem~~
19 ~~necessary or expedient therefor and fix their compensation.~~

20

21 SECTION 4785. Arkansas Code § 17-81-206(b)(8), concerning the powers
22 and duties of the Arkansas State Board of Chiropractic Examiners, is amended
23 to read as follows:

24 (8) Employ ~~such persons~~ a Director of the Arkansas State Board of
25 Chiropractic Examiners, upon the approval of the Secretary of the Department
26 of Health, as may be necessary to carry out the work of the board, who shall
27 have their duties and compensation prescribed by the board within
28 appropriations for that purpose;

29

30 SECTION 4786. Arkansas Code § 17-81-207 is amended to read as follows:
31 17-81-207. ~~Executive director~~ Director.

32 (a) Pursuant to its authority set forth in § 17-81-206(b)(8), the
33 Arkansas State Board of Chiropractic Examiners may employ ~~an executive~~
34 ~~director~~ a Director of the Arkansas State Board of Chiropractic Examiners ~~to~~
35 ~~maintain and operate its office pursuant to its directions.~~

36 (b)(1) The ~~Executive Director of the Arkansas State Board of~~

1 ~~Chiropractic Examiners~~ director in consultation with and review of the
2 Treasurer of the Arkansas State Board of Chiropractic Examiners shall collect
3 all fees and fines on behalf of the ~~board~~ Arkansas State Board of
4 Chiropractic Examiners and submit all payment requests on behalf of the board
5 for its state appropriations.

6 (2) The ~~executive~~ director shall give in writing at the annual
7 meeting of the board a fully itemized report of his or her receipts and
8 disbursements for the preceding year showing the amount of money on hand and
9 shall submit reports for inspection at other times as may be requested by the
10 board or by any of its members.

11 (3) Copies of the annual reports, actions of the board, and
12 number licensed for the year, certified by the Secretary of the Arkansas
13 State Board of Chiropractic Examiners ~~of the board~~, shall be submitted by the
14 ~~executive~~ director to the various chiropractic professional organizations in
15 Arkansas and the Secretary of the Department of Health.

16

17 SECTION 4787. Arkansas Code § 17-81-208(a), concerning the disposition
18 of the funds of the Arkansas State Board of Chiropractic Examiners, is
19 amended to read as follows:

20 (a) All fees and fines authorized by this chapter are the property of
21 the Arkansas State Board of Chiropractic Examiners and shall be paid to the
22 office of the ~~Executive~~ Director of the Arkansas State Board of Chiropractic
23 Examiners who shall collect and dispose of such funds on behalf of the board
24 as provided in this chapter. Any surplus in the treasury of the board at the
25 end of the fiscal year shall remain in the treasury and may be expended in
26 succeeding years for the purposes herein set out.

27

28 SECTION 4788. Arkansas Code § 17-81-304(a)(1)(A), concerning the
29 application and fee for a license to practice chiropractic in the State of
30 Arkansas, is amended to read as follows:

31 (a)(1)(A) Applications for a license to practice chiropractic in the
32 State of Arkansas shall be made to the ~~Executive~~ Director of the Arkansas
33 State Board of Chiropractic Examiners in writing on forms furnished by the
34 Arkansas State Board of Chiropractic Examiners.

35

36 SECTION 4789. Arkansas Code § 17-82-209 is amended to read as follows:

1 17-82-209. Expenses – Compensation of members and employees.

2 (a) The Arkansas State Board of Dental Examiners is empowered to incur
3 whatever expenses ~~it~~ the board may deem necessary or expedient in performing
4 its function.

5 ~~(b) It may employ whatever assistants it may deem necessary or
6 expedient therefor and fix their compensation.~~

7 ~~(e)~~ Each member of the board may receive expense reimbursement and
8 stipends in accordance with § 25-16-901 et seq.

9 ~~(d)~~(c) The board shall fix the salary of the Secretary-treasurer of
10 the Arkansas State Board of Dental Examiners.

11 ~~(e)~~(d) All of the disbursements provided for in this section shall be
12 made out of the fees and fines collected by the board.

13
14 SECTION 4790. Arkansas Code § 17-82-210(b), concerning annual reports
15 of the Arkansas State Board of Dental Examiners, is amended to read as
16 follows:

17 (b) The report shall be filed with the ~~Governor~~ Secretary of the
18 Department of Health not later than September 1 of each year, and a copy
19 thereof, certified by the President of the Arkansas State Board of Dental
20 Examiners and the Secretary-treasurer of the Arkansas State Board of Dental
21 Examiners, shall be filed at the same time with the Secretary of the Arkansas
22 State Dental Association.

23
24 SECTION 4791. Arkansas Code § 17-83-202 is amended to read as follows:

25 17-83-202. Organization and meetings —~~Personnel~~.

26 (a)(1) At least two (2) regular meetings of the Arkansas Dietetics
27 Licensing Board shall be held each calendar year, and at the first regular
28 meeting every two (2) years, the board shall elect a chair and vice chair.
29 Other regular meetings may be held at such time as the rules of the board may
30 provide.

31 (2) Special called meetings may be held at the discretion of the
32 Chair of the Arkansas Dietetics Licensing Board or at the written request of
33 any three (3) members of the board.

34 (3) Reasonable notice of all meetings shall be given in the
35 manner prescribed by the laws of this state.

36 (4) A quorum of the board shall consist of four (4) members.

1 (5) A secretary of the board shall be ~~elected by the board and~~
2 ~~shall hold office at the pleasure of the board~~ employed by the Department of
3 Health.

4 (6) The board shall adopt a seal, which must be affixed to all
5 certificates issued by the board.

6 (b) ~~The board shall employ necessary~~ Department of Health shall employ
7 personnel for the performance of its the board's functions and fix the
8 ~~compensation thereof within the limits of funds available to the board~~ the
9 board may disburse funds to the Department of Health to employ necessary
10 personnel for the performance of the board's functions.

11
12 SECTION 4792. Arkansas Code § 17-84-202(c), concerning the
13 organization and proceedings of the Arkansas Board of Hearing Instrument
14 Dispensers, is amended to read as follows:

15 (c) The board shall keep a record of all of its proceedings and
16 transactions and shall annually make a report to the ~~Governor~~ Secretary of
17 the Department of Health showing all receipts and disbursements and a summary
18 of all business transacted during the year.

19
20 SECTION 4793. Arkansas Code § 17-84-203(10), concerning the powers and
21 duties of the Arkansas Board of Hearing Instrument Dispensers, is amended to
22 read as follows:

23 (10)(A) ~~To employ~~ request the use of Department of Health
24 investigators, issue subpoenas, and perform all activities necessary to
25 effectively investigate claims and pursue disciplinary action against
26 licensees.

27 (B) The board may inspect or may authorize the Department
28 of Health investigators to inspect an established place of business during
29 regular hours of operation; and

30
31 SECTION 4794. Arkansas Code § 17-87-202(c) and (d), concerning the
32 organization and proceedings of the Arkansas State Board of Nursing, are
33 amended to read as follows:

34 (c) ~~The board~~ Department of Health shall maintain an office for the
35 administration of ~~its~~ the board's business.

36 (d) The board shall annually elect a president, vice president,

1 secretary, and treasurer from among its members. The president shall be a
2 registered nurse.

3 ~~(d)~~(e) The ~~Executive~~ Director of the Arkansas State Board of Nursing
4 shall be a registered nurse and meet the qualifications required by the
5 board.

6
7 SECTION 4795. Arkansas Code § 17-87-203(4) and (5), concerning the
8 powers and duties of the Arkansas State Board of Nursing, are amended to read
9 as follows:

10 (4) Make an annual report to the ~~Governor~~ Secretary of the
11 Department of Health;

12 (5) Employ ~~personnel~~ a Director of the Arkansas State Board of
13 Nursing, in consultation with of the Secretary of the Department of Health,
14 if the board determines it necessary for carrying out its functions;

15
16 SECTION 4796. Arkansas Code § 17-89-202(c), concerning meetings and
17 officers of the Arkansas Board of Dispensing Opticians, is amended to read as
18 follows:

19 (c)(1) The Secretary-treasurer of the Arkansas Board of Dispensing
20 Opticians shall perform those administrative duties assigned him or her by
21 the board and shall execute a bond for the state in a sum to be fixed by the
22 board conditioned on the faithful performance of the duties of his or her
23 office.

24 (2) The board shall outline the duties of the secretary-
25 treasurer and fix his or her compensation, upon approval by the Secretary of
26 the Department of Health, per diem, mileage, and other expense moneys in
27 accordance with applicable Arkansas laws and regulations.

28
29 SECTION 4797. Arkansas Code § 17-90-202(c), concerning the appointment
30 of members of the State Board of Optometry, is amended to read as follows:

31 (c) The Secretary-treasurer of the State Board of Optometry shall
32 receive such additional salary as may be fixed by the board, and approved by
33 the Secretary of the Department of Health.

34
35 SECTION 4798. Arkansas Code § 17-90-203(c), concerning meetings,
36 officers, and records of the State Board of Optometry, is amended to read as

1 follows:

2 (c) The board shall make a report annually to the ~~Governor~~ Secretary
3 of the Department of Health showing all receipts and disbursements of moneys
4 and a summary of all business transacted during the year.

5

6 SECTION 4799. Arkansas Code § 17-90-204(4), concerning the powers and
7 duties of the State Board of Optometry, is repealed.

8 ~~(4) To employ or retain the services of attorneys and other~~
9 ~~necessary assistants in carrying out the provisions of this chapter;~~
10

11 SECTION 4800. Arkansas Code § 17-90-205(b)(2), concerning the
12 disposition of funds and the Secretary-treasurer of the State Board of
13 Optometry's bond, is amended to read as follows:

14 (2) The secretary-treasurer shall keep a true and faithful
15 account of all moneys received and all moneys expended and shall file
16 annually with the ~~Governor~~ Secretary of the Department of Health a report of
17 all financial transactions duly audited by an independent accountant.

18

19 SECTION 4801. Arkansas Code § 17-92-205(b), concerning the rules and
20 regulations of the Arkansas State Board of Pharmacy, is amended to read as
21 follows:

22 (b) It shall be the duty of the board, through officials appointed by
23 ~~it or under its supervision~~ the Department of Health for that purpose, to
24 enforce all the provisions of this chapter.

25

26 SECTION 4802. Arkansas Code § 17-92-205(c)(1), concerning the rules
27 and regulations of the Arkansas State Board of Pharmacy, is amended to read
28 as follows:

29 (c)(1) Upon written authorization by the board, the ~~board's~~ Department
30 of Health's inspectors or other designated agents shall have authority to
31 conduct oversight activities authorized by law, including, but not limited
32 to, audits, investigations, inspections, licensure, or disciplinary actions,
33 civil, administrative, or criminal proceedings or actions, or other
34 activities necessary for appropriate oversight of the regulated activities
35 and may enter any store, business establishment, including any hospital
36 pharmacy, or any other facility holding a license, permit, or other authority

1 issued by the board where drugs, medicines, chemicals, pharmaceuticals,
2 poisons, home medical equipment, or services or other objects, services, or
3 activities regulated by the board are manufactured, sold, dispensed, or
4 conducted to enforce this chapter, the Uniform Controlled Substances Act, §§
5 5-64-101 – 5-64-510, § 5-64-1001 et seq., § 5-64-1101 et seq., the Food,
6 Drug, and Cosmetic Act, § 20-56-201 et seq., or § 20-64-501 et seq.

7
8 SECTION 4803. Arkansas Code § 17-92-205(c)(2)(A), concerning the rules
9 and regulations of the Arkansas State Board of Pharmacy, is amended to read
10 as follows:

11 (2)(A) Upon written authorization by the board, the ~~board's~~
12 Department of Health's inspectors and other designated agents may obtain
13 copies of any document, prescription, drug order, or other record or physical
14 object relevant to the board's oversight of the regulated activity.

15
16 SECTION 4804. Arkansas Code § 17-92-205(c)(2)(B)(i), concerning the
17 rules and regulations of the Arkansas State Board of Pharmacy, is amended to
18 read as follows:

19 (B)(i) With regard to hospital pharmacies, the ~~board's~~
20 Department of Health's inspectors and other designated agents may also view
21 and at the ~~board's~~ department's expense make copies of identifiable records
22 relating to patients in patient areas of the hospital if the records are
23 relevant to an activity regulated by the board.

24
25 SECTION 4805. Arkansas Code § 17-92-205(c)(6), concerning the rules
26 and regulations of the Arkansas State Board of Pharmacy, is amended to read
27 as follows:

28 (6) The ~~board's~~ Department of Health's inspectors and other
29 designated agents may seize products for testing of sterility, potency, and
30 pyrogenicity when inspecting permitted facilities.

31
32 SECTION 4806. Arkansas Code § 17-92-206(b), concerning the issuance of
33 bulletins and the annual report of the Arkansas State Board of Pharmacy, is
34 amended to read as follows:

35 (b) The board shall make a written report on September 1 of each year
36 to the ~~Governor~~ Secretary of the Department of Health and to the Arkansas

1 Pharmacists Association of all its proceedings, orders, rules, requirements,
2 and regulations, of its receipts and disbursements, including also the names
3 of all persons licensed to practice under this chapter, and a record of
4 permits and renewals.

5
6 SECTION 4807. Arkansas Code § 17-92-207 is repealed.

7 ~~17-92-207. Maintenance of office.~~

8 ~~The Arkansas State Board of Pharmacy shall have the authority to~~
9 ~~maintain an office, purchase supplies, etc., for the advancement of pharmacy~~
10 ~~as may in its judgment be deemed necessary to carry out the purposes of this~~
11 ~~chapter and to enforce the pharmacy laws of this state.~~

12
13 SECTION 4808. Arkansas Code § 17-92-208 is amended to read as follows:

14 17-92-208. Authority Authorization for payment to the Department of
15 Health.

16 (a) The Arkansas State Board of Pharmacy ~~is authorized to~~ may make
17 payment to the Department of Health for services, salaries, and other
18 purposes from the funds received by the board from issuance of licensed
19 pharmacy permits, renewals, or certificates of licensure of licensed
20 pharmacists, examinations, reciprocity fees, and from other moneys collected.

21 (b)(1) The ~~board is authorized to~~ department may employ an attorney to
22 supervise and conduct its investigations and to institute and prosecute
23 actions and charges for the violation of the provisions of the Arkansas
24 Pharmacy Act, § 17-92-101 et seq.

25 (2) The attorney employed or retained by the ~~board~~ department
26 may make regular reports to the Attorney General of the actions instituted or
27 prosecuted by him or her.

28 (3) Appeals from the circuit court to the Supreme Court in
29 matters affecting the action of the board may be handled by the office of the
30 Attorney General.

31 (c) The board ~~is authorized to~~ may make reimbursement of the necessary
32 and reasonable travel, board, and lodging expenses of the staff of the board
33 incurred in the performance of their duties.

34
35 SECTION 4809. Arkansas Code § 17-93-406(8), concerning the powers and
36 duties of the Arkansas State Board of Athletic Training, is amended to read

1 as follows:

2 (8) To file an annual report of its activities, including the
3 activities of the board, with the Department of ~~Finance and Administration~~
4 Health.

5

6 SECTION 4810. Arkansas Code § 17-95-301(f)(2), concerning the creation
7 of the Arkansas State Medical Board, is amended to read as follows:

8 (2) The ~~Executive~~ Director of the Arkansas State Medical Board
9 and the Deputy Director of the Arkansas State Medical Board shall receive
10 such additional salary as may be fixed by the ~~board~~ Department of Health.

11

12 SECTION 4811. Arkansas Code § 17-95-301(h)(1)(C)(ii), concerning the
13 creation of the Arkansas State Medical Board, is amended to read as follows:

14 (ii) The Division of Pharmacy Services and Drug
15 Control of the Department of Health shall prepare a report for the ~~Governor~~
16 Secretary of the Department of Health based on its findings.

17

18 SECTION 4812. Arkansas Code § 17-95-303 is amended to read as follows:
19 17-95-303. Powers and duties.

20 The Arkansas State Medical Board shall:

21 (1) Make and adopt all rules, ~~regulations~~, and bylaws not
22 inconsistent with the laws of this state or of the United States and
23 necessary or convenient to perform the duties and to transact the business
24 required by law;

25 (2) Have authority to promulgate and put into effect such rules
26 ~~and regulations~~ as are necessary to carry out the purposes of the Arkansas
27 Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-
28 401 et seq., and the intentions expressed therein;

29 (3)(A)(i) Have authority to request the Department of Health
30 employ attorneys to represent the board in all legal matters for a
31 compensation approved by the board.

32 (ii) Contracts for employment of attorneys shall be
33 filed by the ~~Executive Director of the Arkansas State Medical Board~~ Secretary
34 of the Department of Health with the Legislative Council.

35 (B) The board shall ~~further~~ have authority to request the
36 assistance of the Attorney General and the prosecuting attorneys of Arkansas

1 in such manner as it deems necessary and proper;

2 (4) Have the authority to employ ~~an executive~~ a director ~~and a~~
3 ~~deputy director~~ in consultation with the secretary to carry out the purposes
4 and the mandates of the board ~~and to supervise the other employees of the~~
5 ~~board;~~

6 (5) ~~Have the authority to employ a medical director, who shall~~
7 ~~hold a valid license to practice medicine in this state, to evaluate medical~~
8 ~~issues and to assist in investigations pending before the board;~~

9 (6) ~~Have the power and authority to employ such secretarial and~~
10 ~~administrative assistance as may be necessary to carry out the provisions of~~
11 ~~the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq.,~~
12 ~~and § 17-95-401 et seq., and the duties of the board to protect the people of~~
13 ~~the State of Arkansas;~~

14 (7) ~~Have the power and authority to employ one (1) or more~~
15 ~~inspectors as may be necessary to carry out the provisions of the Arkansas~~
16 ~~Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-~~
17 ~~401 et seq., and the duties of the board to protect the people of the State~~
18 ~~of Arkansas;~~

19 (8) Examine, as is provided for by law, all applicants for a
20 license to practice medicine in this state;

21 (9) Consider and give deference to data, studies, consensus
22 documents, and conclusions issued by the Centers for Disease Control and
23 Prevention or the National Institutes of Health whenever their data, studies,
24 consensus documents, and conclusions are relevant to any decision made
25 pursuant to the board's powers and duties under the Arkansas Medical
26 Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et
27 seq.;

28 (10)(6) Have the power and authority to collect practice data
29 from licensees; and

30 (11)(7) Promulgate rules limiting the amount of Schedule II
31 narcotics that may be prescribed and dispensed by licensees of the board.

32
33 SECTION 4813. Arkansas Code § 17-95-304(a), concerning the inspectors
34 of the Division of Pharmacy Services and Drug Control of the Department of
35 Health, is amended to read as follows:

36 (a)(1) The Arkansas State Medical Board shall utilize ~~as its employees~~

1 the investigators and inspectors of the Division of Pharmacy Services and
2 Drug Control of the Department of Health.

3 (2) The Department of Health is directed to make investigators
4 and inspectors available for those purposes for as long as they may conduct
5 investigations and inspections of prescriptions.

6
7 SECTION 4814. Arkansas Code § 17-95-304(b)(2), concerning the
8 inspectors of the Division of Pharmacy Services and Drug Control of the
9 Department of Health, is amended to read as follows:

10 (2) The inspectors shall have the duty and authority upon
11 written direction by the ~~Executive~~ Director of the Arkansas State Medical
12 Board to investigate, inspect, and make copies of the records, orders, and
13 prescriptions, wherever located, of all persons licensed by the board in
14 order to determine whether or not the persons have:

15 (A) Violated the laws of the State of Arkansas or of the
16 United States respecting the prescription and use of narcotics and
17 potentially dangerous drugs;

18 (B) Practiced their profession in such a way as to
19 endanger the general health and welfare of the public; or

20 (C) Violated the provisions of the Arkansas Medical
21 Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et
22 seq.

23
24 SECTION 4815. Arkansas Code § 17-95-305(b), concerning the disposition
25 of funds of the Arkansas State Medical Board, is amended to read as follows:

26 (b)(1) All moneys received by the board shall be disbursed by the
27 Chair of the Arkansas State Medical Board or the ~~Executive~~ Director of the
28 Arkansas State Medical Board.

29 (2) The ~~chair or the executive director, or both,~~ board shall
30 furnish a surety bond and shall keep a true and faithful account of all
31 moneys received and all moneys expended.

32 (3) The ~~executive director~~ chair shall file annually with the
33 ~~Governor~~ Secretary of the Department of Health a report of all financial
34 transactions duly audited by an independent accountant.

35
36 SECTION 4816. Arkansas Code § 17-95-310 is repealed.

1 ~~17-95-310. Medical Director of Arkansas State Medical Board—~~
2 ~~Qualifications.~~

3 ~~The Medical Director of the Arkansas State Medical Board shall:~~

4 ~~(1) Have been in full-time clinical practice of medicine in~~
5 ~~direct patient care within one (1) year of filling the position of medical~~
6 ~~director;~~

7 ~~(2) Have fifteen (15) years of current, continuous full-time~~
8 ~~medical service immediately before the date of appointment, which shall~~
9 ~~include, but not be limited to, at least ten (10) years of full-time clinical~~
10 ~~practice in direct patient care, five (5) years of which shall have been in~~
11 ~~full-time clinical practice in direct patient care in the State of Arkansas;~~

12 ~~(3) Have not served on the Arkansas State Medical Board within~~
13 ~~the past five (5) years; and~~

14 ~~(4) Have a comprehensive knowledge of the contemporary, broad-~~
15 ~~based clinical practice of medicine with experience in direct patient care.~~

16
17 SECTION 4817. Arkansas Code § 17-95-409(b)(2), concerning the denial,
18 suspension, or revocation of a license by the Arkansas State Medical Board,
19 is amended to read as follows:

20 (2) Upon notification from the Dean of the College of Medicine
21 of the University of Arkansas for Medical Sciences and the ~~Director~~ Secretary
22 of the Department of Health that exigent circumstances warrant a waiver of
23 the suspension, the Arkansas State Medical Board shall reinstate the holder's
24 license.

25
26 SECTION 4818. Arkansas Code § 17-96-203(a), concerning payment of
27 expenses and compensation of members of the Arkansas Board of Podiatric
28 Medicine, is amended to read as follows:

29 (a) The Arkansas Board of Podiatric Medicine is empowered to incur
30 whatever expenses ~~it~~ the board may deem necessary or expedient in performing
31 ~~its~~ the board's functions, ~~and it may employ whatever assistants it may deem~~
32 ~~necessary or expedient and fix their compensation.~~

33
34 SECTION 4819. Arkansas Code § 17-97-204(a), concerning the collection
35 and disposition of fees by the Arkansas Psychology Board, is amended to read
36 as follows:

1 (a) The Arkansas Psychology Board ~~is authorized to~~ may establish ~~and~~
2 ~~collect~~ various fees and penalties for services related to provision of
3 temporary permits, printed materials, handling returned checks, costs
4 incurred in processing delinquent payments, and other reasonable services as
5 may be determined by the board and the Department of Health is authorized to
6 collect such fees and penalties.

7
8 SECTION 4820. Arkansas Code § 17-98-203(c), concerning the rules and
9 regulations of the State Board of Disease Intervention Specialists, is
10 repealed.

11 ~~(c) The board, if moneys are appropriated therefor, may employ and fix~~
12 ~~the compensation of such assistants, clerks, stenographers, typists, and~~
13 ~~other employees to serve at the pleasure of the board, and acquire such~~
14 ~~office space, furniture, supplies, equipment, and other such proper~~
15 ~~conveniences as may be reasonably necessary for the performance of their~~
16 ~~duties under this chapter.~~

17
18 SECTION 4821. Arkansas Code § 17-100-201(a), concerning the creation
19 of the Board of Examiners in Speech-Language Pathology and Audiology, is
20 amended to read as follows:

21 (a) There is established ~~as an independent agency of the executive~~
22 ~~branch of the government of the State of Arkansas~~ the Board of Examiners in
23 Speech-Language Pathology and Audiology within the Department of Health.

24
25 SECTION 4822. Arkansas Code § 17-100-204 is amended to read as
26 follows:

27 17-100-204. ~~Officers and employees~~ Director.

28 (a) The Board of Examiners in Speech-Language Pathology and Audiology
29 may employ and, ~~at its pleasure,~~ discharge, with the approval of the
30 Secretary for the State Board of Health, an executive secretary and such
31 officers and employees a Director of the Board of Examiners in Speech-
32 Language Pathology and Audiology as may be necessary to carry out the duties
33 of the board.

34 (b) The board shall outline duties and fix compensation of ~~employees~~
35 the director in accordance with law.

36 (c) The amount of per diem and mileage and expense moneys paid

1 ~~employees of the board~~ to the director shall be in accordance with applicable
2 law.

3
4 SECTION 4823. Arkansas Code § 17-100-206 is amended to read as
5 follows:

6 17-100-206. Disposition of funds – Reports.

7 (a) All fees and other funds received by the Board of Examiners in
8 Speech-Language Pathology and Audiology shall be deposited into a bank
9 account in the name of the board in one (1) or more banks in this state and
10 shall be used by the board exclusively for payment to the Department of
11 Health of reasonable and necessary salaries, maintenance, and operating
12 expenses in the performance of duties imposed on the board under the
13 provisions of this chapter or the payment of the salary of the Director of
14 the Board of Examiners in Speech-Language Pathology and Audiology.

15 (b) The board shall report monthly to the Department of Health and the
16 Department of Finance and Administration the amount and source of all revenue
17 received by it pursuant to this chapter during the preceding month.

18 (c) All appropriate expenses incurred by the board in the
19 administration of the provisions of this chapter shall be paid when vouchers
20 relating to such expenses are exhibited as having been approved by the board.

21 (d)(1) The board shall be financed from income accruing from fees,
22 licenses, and other income collected by the board.

23 (2) All ~~employee salaries and other~~ expenses, which may include
24 full or partial financing of continuing professional education programs
25 adopted by the board under § 17-100-306, and the salary of the director shall
26 be paid as budgeted after budgets are approved or within the limitations of
27 any appropriation for that purpose that may be included in any appropriate
28 Arkansas appropriations law.

29 (3) All employee salary reimbursement amounts shall be
30 determined by the Department of Health and shall be paid as budgeted after
31 budgets are approved or within the limitations of any appropriation for that
32 purpose that may be included in any appropriate Arkansas appropriations law.

33 (e) The board will have the authority to establish and change fees for
34 application, examination, renewal, inactivation, reactivation, and
35 delinquency purposes.

36

1 SECTION 4824. Arkansas Code § 17-102-206(a)(1), concerning the
2 Arkansas State Board of Acupuncture and Related Techniques, is amended to
3 read as follows:

4 (a)(1) The Arkansas State Board of Acupuncture and Related Techniques
5 is empowered to incur whatever expenses it may deem necessary or expedient in
6 performing its functions. ~~It may employ or engage whatever personnel, legal~~
7 ~~counsel, independent contractors, or assistants it may deem necessary or~~
8 ~~expedient therefor and fix their compensation. However, no employee of the~~
9 ~~Arkansas State Board of Acupuncture and Related Techniques shall have any~~
10 ~~financial interest in the occupation of acupuncture and related techniques.~~
11

12 SECTION 4825. Arkansas Code § 17-103-202(e), concerning the
13 organization and function of the Arkansas Social Work Licensing Board, is
14 amended to read as follows:

15 (e) The board ~~shall~~ may employ ~~necessary personnel~~ a Director of the
16 Arkansas Social Work Licensing Board, with the approval of the Secretary of
17 the Department of Health, for the performance of its functions and fix the
18 compensation of the ~~personnel~~ director within the limits of funds available
19 to the board.
20

21 SECTION 4826. Arkansas Code § 17-103-204(a), concerning the
22 disposition of the funds of the Social Work Licensing Fund, is amended to
23 read as follows:

24 (a) The ~~Executive~~ Director of the Arkansas Social Work Licensing Board
25 or his or her designee shall receive and account for all money derived under
26 the provisions of this chapter and shall pay the money to the Treasurer of
27 State, who shall keep the money in a separate fund to be known as the "Social
28 Work Licensing Fund".
29

30 SECTION 4827. Arkansas Code § 17-103-204(d), concerning the
31 disposition of the funds of the Social Work Licensing Fund, is amended to
32 read as follows:

33 (d) The ~~executive~~ director shall be bonded to handle the finances of
34 the Arkansas Social Work Licensing Board in compliance with state rules.
35

36 SECTION 4828. Arkansas Code § 17-106-104(a)(1)(B), concerning the

1 Medical Ionizing Radiation Licensure Committee, is amended to read as
2 follows:

3 (B) One (1) member shall be the ~~Director~~ Secretary of the
4 Department of Health or his or her designee.

5
6 SECTION 4829. Arkansas Code § 17-106-105(a)(1)(A), concerning the
7 duties and powers of the State Board of Health, is amended to read as
8 follows:

9 (A)(i) Incur whatever expenses ~~it~~ the board may deem
10 necessary or expedient in performing ~~its~~ the board's duties under the
11 provisions of this chapter.

12 (ii) ~~It~~ The board, pursuant to the administration of
13 the Department of Health, may employ or engage whatever personnel, legal
14 counsel, independent contractors, or assistants it may deem necessary or
15 expedient and fix their compensation;

16

17 SECTION 4830. Arkansas Code § 17-107-202(e), concerning the
18 organization and proceedings of the Arkansas Orthotics, Prosthetics, and
19 Pedorthics Advisory Board, is amended to read as follows:

20 (e) The ~~Division of Medical Services of the Department of Human~~
21 ~~Services~~ Department of Health shall provide staff support for the board.

22

23 SECTION 4831. Arkansas Code § 19-5-307(a)(2), concerning the Public
24 Health Fund, is amended to read as follows:

25 (2) The ~~Director~~ Secretary of the Department of Health;

26

27 SECTION 4832. Arkansas Code § 19-12-113(b), resulting from Initiated
28 Act 1 of 2000 and concerning the establishment and administration of
29 prevention and cessation programs, is amended to read as follows:

30 (b) The Department of Health shall be responsible for developing,
31 integrating, and monitoring tobacco prevention and cessation programs funded
32 under this chapter and shall provide administrative oversight and management,
33 including, but not limited to implementing performance based measures. The
34 Department of Health shall have authority to award grants and allocate money
35 appropriated to implement the tobacco prevention and cessation program
36 mandated under this chapter. The Department of Health may contract with

1 those entities necessary to fully implement the tobacco prevention and
2 cessation initiatives mandated under this chapter. Within thirty (30) days
3 of receipt of moneys into the Prevention and Cessation Program Account,
4 fifteen percent (15%) of those moneys shall be deposited into a special
5 account within the prevention and cessation account at the Department of
6 Health to be expended for tobacco prevention and cessation in minority
7 communities as directed by the ~~Director~~ Secretary of the Department of Health
8 in consultation with the Chancellor of the University of Arkansas at Pine
9 Bluff, the President of the Arkansas Medical, Dental, and Pharmaceutical
10 Association, and the League of United Latin American Citizens.

11

12 SECTION 4833. Arkansas Code § 19-12-113(e)(1), resulting from
13 Initiated Act 1 of 2000 and concerning the establishment and administration
14 of prevention and cessation programs, is amended to read as follows:

15 (1) The Advisory Committee shall consist of eighteen (18)
16 members; one (1) member to be appointed by the President Pro Tempore of the
17 Senate, one (1) member to be appointed by the Speaker of the House of
18 Representatives, and sixteen (16) members to be appointed by the Governor
19 subject to confirmation by the Senate. The Governor shall consult each of the
20 following designated groups before making an appointment, and shall consist
21 of the following: one (1) member appointed to represent the Arkansas Medical
22 Society, Inc.; one (1) member shall represent the Arkansas Hospital
23 Association, Inc.; one (1) member shall represent the American Cancer
24 Society; one (1) member shall represent the American Heart Association; one
25 (1) member shall represent the American Lung Association; one (1) member
26 shall represent the Coalition for a Tobacco-Free Arkansas; one (1) member
27 shall represent Arkansans for Drug Free Youth; one (1) member shall represent
28 the ~~Department of Education~~ Division of Elementary and Secondary Education;
29 one (1) member shall represent the Arkansas Minority Health Commission; one
30 (1) member shall represent the Arkansas Center for Health Improvement; one
31 (1) member shall represent the Arkansas Association of Area Agencies on
32 Aging; one (1) member shall represent the Arkansas Nurses Association; one
33 (1) member shall represent the University of Arkansas Cooperative Extension
34 Service; one (1) member shall represent the University of Arkansas at Pine
35 Bluff; one (1) member shall represent the League of United Latin American
36 Citizens; and one (1) member shall represent the Arkansas Medical, Dental,

1 and Pharmaceutical Association, Inc. The Executive Committee of Arkansas
2 Students Working Against Tobacco shall serve as youth advisors to this
3 Advisory Committee. All members of this committee shall be residents of the
4 State of Arkansas.

5

6 SECTION 4834. Arkansas Code § 19-12-117 resulting from Initiated Act 1
7 of 2000 is amended to read as follows:

8 19-12-117. Establishment of the Arkansas Tobacco Settlement
9 Commission.

10 (a) There is hereby created and recognized the Arkansas Tobacco
11 Settlement Commission, which shall be composed of the following:

12 (1) The ~~Executive~~ Director of the Arkansas Economic Development
13 Commission or his or her designee;

14 (2) The ~~Director of the Department of Education~~ Commissioner of
15 Elementary and Secondary Education or his or her designee;

16 (3) The Director of the ~~Department~~ Division of Higher Education
17 or his or her designee;

18 (4) The ~~Director~~ Secretary of the Department of Human Services
19 or his or her designee;

20 (5) The ~~Director~~ Secretary of the Department of Health or his or
21 her designee;

22 (6) A healthcare professional to be selected by the President
23 Pro Tempore of the Senate;

24 (7) A healthcare professional to be selected by the Speaker of
25 the House of Representatives;

26 (8) A citizen selected by the Governor; and

27 (9) A citizen selected by the Attorney General.

28 (b)(1) The four (4) members of the commission who are not on the
29 commission by virtue of being a director of an agency, will serve four-year
30 terms. The terms shall commence on October 1 of each year. Commission members
31 are limited to serving two (2) consecutive four-year terms.

32 (2) Members of the commission shall not be entitled to
33 compensation for their services, but may receive expense reimbursement in
34 accordance with § 25-16-902, to be paid from funds appropriated for this
35 program.

36 (c) Members appointed to the commission and the organizations they

1 represent shall make full disclosure of the members' participation on the
2 commission when applying for any grant or contract funded by this chapter.

3 (d) All members appointed to the commission shall make full and public
4 disclosure of any past or present association to the tobacco industry.

5 (e) The commission shall, within ninety (90) days of appointment, hold
6 a meeting and elect from its membership a chair for a term set by the
7 commission. The commission is authorized to adopt bylaws.

8 (f) The commission shall meet at least quarterly. However, special
9 meetings of the commission may be called at any time at the pleasure of the
10 chair or pursuant to the bylaws of the commission.

11 (g) The commission is authorized to hire an independent third party
12 with appropriate experience in health, preventive resources, health
13 statistics, and evaluation expertise to perform monitoring and evaluation of
14 program expenditures made from the program accounts pursuant to this chapter.
15 Such monitoring and evaluation shall be performed in accordance with § 19-12-
16 118, and the third party retained to perform such services shall prepare a
17 biennial report to be delivered to the General Assembly and the ~~Governor~~
18 Secretary of the Department of Health by each August 1 preceding a general
19 session of the General Assembly. The report shall be accompanied by a
20 recommendation from the commission as to the continued funding for each
21 program.

22 (h) ~~The commission is authorized to hire such staff as it may~~
23 ~~reasonably need to carry out the duties described in this chapter.~~ The costs
24 and expenses of the monitoring and evaluation program, as administered by the
25 Department of Health, as well as the salaries, costs, and expenses of staff
26 shall be paid from the Arkansas Tobacco Settlement Commission Fund
27 established pursuant to § 19-12-108.

28 (i) If the deposits into the Arkansas Tobacco Settlement Commission
29 Fund exceed the amount necessary to pay the costs and expenses described in
30 subsection (h) of this section, then the commission is authorized to make
31 grants as follows:

32 (1) Those organizations eligible to receive grants are nonprofit
33 and ~~community-based~~ community-based;

34 (2) Grant criteria shall be established based upon the following
35 principles:

36 (A) All funds should be used to improve and optimize the

1 health of Arkansans;

2 (B) Funds should be spent on long-term projects that
3 improve the health of Arkansans;

4 (C) Future tobacco-related illness and ~~health care~~
5 healthcare costs in Arkansas should be minimized through this opportunity;
6 and

7 (D) Funds should be invested in solutions that work
8 effectively and efficiently in Arkansas; and

9 (3) Grant awards shall be restricted in amounts up to fifty-
10 thousand dollars (\$50,000) per year for each eligible organization.

11

12 SECTION 4835. Arkansas Code § 20-2-103(a)(1), concerning the powers
13 and duties of the Arkansas Minority Health Commission, is amended to read as
14 follows:

15 (1) Establish the commission as the comprehensive ~~agency~~
16 commission in this state for:

17 (A) Gathering and analyzing information regarding
18 disparities in health and health care and access to health and healthcare
19 services in this state;

20 (B) Statewide educational programming regarding
21 disparities in health and health care and equal access to health and
22 healthcare services; and

23 (C) Coordinating events regarding disparities in health
24 and health care and access to health and healthcare services;

25

26 SECTION 4836. Arkansas Code § 20-2-103(a)(2)(B), concerning the powers
27 and duties of the Arkansas Minority Health Commission, is amended to read as
28 follows:

29 (B) The following health and healthcare-related state
30 ~~agencies entities~~ and divisions of state ~~agencies entities~~ shall collaborate
31 with the commission to achieve healthcare equity in the ~~state~~ State of
32 Arkansas:

33 (i) The Department of Health;

34 (ii) The Department of Human Services;

35 (iii) The ~~Arkansas Department~~ Division of

36 Environmental Quality;

1 (iv) The Fay W. Boozman College of Public Health of
2 the University of Arkansas for Medical Sciences; and

3 (v) The Arkansas Center for Health Improvement.
4

5 SECTION 4837. Arkansas Code § 20-2-103(a)(5), concerning the powers
6 and duties of the Arkansas Minority Health Commission, is amended to read as
7 follows:

8 (5) Make recommendations to the relevant agencies, to the
9 ~~Governor~~ Secretary of the Department of Health, and to the General Assembly
10 for improving the delivery of and access to health services for minorities;
11

12 SECTION 4838. Arkansas Code § 20-2-107 is amended to read as follows:
13 20-2-107. Report on health disparities.

14 On or before October 1 each year, the Arkansas Minority Health
15 Commission shall report to the ~~Governor~~ Secretary of the Department of
16 Health, the Speaker of the House of Representatives, the President Pro
17 Tempore of the Senate, the Chair of the House Committee on Public Health,
18 Welfare, and Labor, and the Chair of the Senate Committee on Public Health,
19 Welfare, and Labor without limitation:

20 (1) Summarizing the previous year's work under § 20-2-103(a)(5)
21 and (6);

22 (2) Describing reductions in disparities in health and health
23 care in this state; and

24 (3) Outlining plans for continuing and expanding in the coming
25 year the program to reduce disparities in health and health care in this
26 state.
27

28 SECTION 4839. Arkansas Code § 20-7-102(a)(17), concerning the members
29 of the State Board of Health, is amended to read as follows:

30 (17) One (1) member shall be the ~~Director~~ Secretary of the
31 Department of Health.
32

33 SECTION 4840. Arkansas Code § 20-7-103 is amended to read as follows:
34 20-7-103. Members – Officers.

35 (a) The members of the State Board of Health shall elect one (1) of
36 the members as president.

1 (b)(1) The State Board of Health shall nominate to the Governor a
2 Director of the Department of Health.

3 ~~(2)(A)~~ The Governor shall appoint the director who shall serve
4 at the pleasure of the Governor.

5 (B) The director shall report to the Secretary of the
6 Department of Health.

7 (C) The Secretary of the Department of Health may serve as
8 the Director of the Department of Health if the Governor determines all
9 statutory requirements are fulfilled.

10 ~~(3)(2)~~ The director shall may:

11 (A) Serve as the State Health Officer;

12 (B) Serve as the Secretary for the State Board of Health
13 ~~and shall have all the powers of a member of the State Board of Health~~ but
14 shall not sit as a member of the State Board of Health;

15 (C)(i)(a) Be a licensed medical doctor who is a graduate
16 of a school of medicine recognized by the Arkansas State Medical Board;

17 (b) Hold a graduate degree in public health or
18 a graduate degree in a recognized public health discipline from an accredited
19 college or university or have equivalent knowledge and experience in public
20 health as determined by the ~~State Board of Health~~ Secretary of the Department
21 of Health; and

22 (c) Have experience in the practice of public
23 health and in leadership and management, the sufficiency of which shall be
24 determined by the ~~State Board of Health~~ Secretary of the Department of
25 Health; or

26 (ii) Hold a doctoral degree in public health or a
27 doctoral degree in a recognized public health discipline from an accredited
28 college or university with at least five (5) years of experience in the
29 practice of public health and at least ten (10) years of experience in the
30 leadership and management of a large complex organization, the sufficiency of
31 which shall be determined by the ~~State Board of Health~~ Secretary of the
32 Department of Health.

33
34 SECTION 4841. Arkansas Code § 20-7-106 is amended to read as follows:
35 20-7-106. Office.

36 The office of the State Board of Health shall be located in Little

1 Rock, and the board shall be furnished with all necessary equipment and
2 supplies, including laboratory supplies, books, stationery, blanks,
3 furniture, etc., as are provided other officers of the state and as are
4 necessary for carrying on the work of the board, and the office is to be
5 provided in a suitable building to be designated by the ~~Director~~ Secretary of
6 the Department of Health.

7
8 SECTION 4842. Arkansas Code § 20-7-107 is amended to read as follows:
9 20-7-107. Appointment of assistant director.

10 The ~~Director~~ Secretary of the Department of Health may appoint and
11 employ an assistant director who shall be knowledgeable in the field of
12 public health and whose duty it shall be to assist the director in the
13 general supervision of the affairs of his or her office and in the
14 enforcement of quarantine and sanitation throughout the state.

15
16 SECTION 4843. Arkansas Code § 20-7-108 is amended to read as follows:
17 20-7-108. Engagement of certain personnel.

18 ~~From time to time, the State Board of Health~~ The Department of Health
19 may engage suitable persons to render sanitary service, to make or supervise
20 practical and scientific investigations and examinations requiring expert
21 skill, and to prepare plans and to report relative to sanitary service.

22
23 SECTION 4844. Arkansas Code § 20-7-111(c), concerning the
24 administration of certain federal acts by the State Board of Health, is
25 amended to read as follows:

26 (c)(1) The ~~Director~~ Secretary of the Department of Health shall act as
27 executive officer ~~of the board~~ for the purpose of administering the federal
28 acts and this section.

29 (2) The ~~director~~ secretary shall carry into effect such rules
30 and regulations as the federal authorities and the board may adopt pursuant
31 to the federal acts and this section.

32
33 SECTION 4845. Arkansas Code § 20-7-114(a)(2), concerning the
34 establishment of a public health laboratory by the State Board of Health, is
35 amended to read as follows:

36 (2) The public health laboratory shall be established and

1 maintained at the Department of Health under the direct supervision of the
2 ~~Director~~ Secretary of the Department of Health or his or her authorized
3 representatives.

4
5 SECTION 4846. Arkansas Code § 20-7-117(a), concerning the creation of
6 the State Hospice Office, is amended to read as follows:

7 (a) There is created within the Department of Health a State Hospice
8 Office to be administered in a division of the department to be designated by
9 the ~~Director~~ Secretary of the Department of Health.

10
11 SECTION 4847. Arkansas Code § 20-7-121(a), concerning the annual
12 report of the State Board of Health, is amended to read as follows:

13 (a) It shall be the duty of the State Board of Health to make an
14 annual written report through the ~~Director~~ Secretary of the Department of
15 Health to the Governor on or before January 1 of each year.

16
17 SECTION 4848. Arkansas Code § 20-7-133(b)(1), concerning the creation
18 of the Child Health Advisory Committee, is amended to read as follows:

19 (b)(1) The ~~Director~~ Secretary of the Department of Health shall
20 appoint:

21 (A) One (1) member to represent the Department of Health;

22 (B) One (1) member to represent the Arkansas Academy of
23 Nutrition and Dietetics;

24 (C) One (1) member to represent the American Academy of
25 Pediatrics, Arkansas Chapter;

26 (D) One (1) member to represent the Arkansas Academy of
27 Family Practice;

28 (E) One (1) member to represent the Arkansas Association
29 for Health, Physical Education, Recreation and Dance;

30 (F) One (1) member to represent jointly the American Heart
31 Association, the American Cancer Society, and the American Lung Association;

32 (G) One (1) member to represent the Fay W. Boozman College
33 of Public Health of the University of Arkansas for Medical Sciences;

34 (H) One (1) member to represent the Arkansas Center for
35 Health Improvement;

36 (I) One (1) member to represent the Arkansas Advocates for

1 Children and Families;

2 (J) One (1) member to represent the University of Arkansas
3 Cooperative Extension Service; and

4 (K) One (1) member to represent the Office of Minority
5 Health and Health Disparities of the Department of Health.

6

7 SECTION 4849. The introductory language of Arkansas Code § 20-7-
8 133(b)(2), concerning the creation of the Child Health Advisory Committee,
9 is amended to read as follows:

10 (2) The Commissioner of Elementary and Secondary Education shall
11 appoint:

12

13 SECTION 4850. Arkansas Code § 20-7-133(b)(2)(A), concerning the
14 creation of the Child Health Advisory Committee, is amended to read as
15 follows:

16 (A) One (1) member to represent the ~~Department of~~
17 ~~Education~~ Division of Elementary and Secondary Education;

18

19 SECTION 4851. Arkansas Code § 20-7-202(4), concerning the definition
20 of "director" under the Arkansas Health Department Building and Local Grant
21 Act, is repealed.

22 ~~(4) "Director" or "State Health Officer" means the Director of~~
23 ~~the Department of Health;~~

24

25 SECTION 4852. Arkansas Code § 20-7-203 is amended to read as follows:
26 20-7-203. Disposition of funds.

27 (a) The ~~Director~~ Secretary of the Department of Health may construct
28 or acquire such facilities and property as are necessary for the provision of
29 current and future requirements for the Department of Health.

30 (b) Notwithstanding other provisions of this subchapter, the ~~director~~
31 secretary, with the approval of the State Board of Health, may use any
32 unobligated funds in the State Health Department Building and Local Grant
33 Trust Fund in an amount not to exceed six hundred fifty thousand dollars
34 (\$650,000) to construct or acquire any land, building, structure, or other
35 property, real, personal, or mixed, and any expenses incidental thereto which
36 are deemed appropriate for the provision of current and future requirements

1 for the department.

2 (c) With the approval of the board, the ~~director~~ secretary may lease,
3 sublease, or otherwise negotiate for the use of any space acquired or
4 constructed under this subchapter to other governmental and nongovernmental
5 entities. Revenues derived from any such lease, sublease, or other
6 arrangement shall be deposited into the Public Health Fund.

7 (d) Neither the ~~director~~ secretary nor any member of the board shall
8 be personally liable for any obligation or action undertaken in connection
9 therewith or for any damages sustained by anyone with respect to any
10 obligations or actions unless he or she shall have acted with a corrupt
11 intent.

12

13 SECTION 4853. Arkansas Code § 20-7-204(c), concerning the State Health
14 Department Building and Local Grant Trust Fund, is amended to read as
15 follows:

16 (c) The ~~Director~~ Secretary of the Department of Health shall be the
17 disbursing agent and executive officer for the fund.

18

19 SECTION 4854. Arkansas Code § 20-7-303(a) and (b), concerning the
20 collection and dissemination of health data, are amended to read as follows:

21 (a) With the approval of the State Board of Health, the ~~Director~~
22 Secretary of the Department of Health shall compile and disseminate health
23 data collected by the Department of Health.

24 (b)(1) In consultation with advisory groups appointed by the ~~director~~
25 secretary with representation from hospitals, outpatient surgery centers,
26 health profession licensing boards, and other state agencies, the department
27 should:

28 (A) Identify the most practical methods to collect,
29 transmit, and share required health data as described in § 20-7-304;

30 (B) Utilize, wherever practical, existing administrative
31 databases and modalities of data collection to provide the required data;

32 (C) Develop standards of accuracy, timeliness, economy,
33 and efficiency for the provision of the data; and

34 (D) Ensure confidentiality of data by enforcing
35 appropriate rules and regulations.

36 (2) To maximize limited resources and to prevent duplication of

1 effort, the department may consider, when appropriate, contracting with
2 private entities for the collection of data as set forth in this section
3 subject to this subchapter.

4
5 SECTION 4855. Arkansas Code § 20-7-303(c)(2), concerning the
6 collection and dissemination of health data, is amended to read as follows:

7 (2) If health data are already reported to another organization
8 or governmental agency in the same manner, form, and content or in a manner,
9 form, and content acceptable to the department, the ~~director~~ secretary may
10 obtain a copy of the data from the organization or agency, and no duplicate
11 report need be submitted by the organization.

12
13 SECTION 4856. Arkansas Code § 20-7-304 is amended to read as follows:
14 20-7-304. Release of health data.

15 The ~~Director~~ Secretary of the Department of Health may release data
16 collected under this subchapter, except that data released shall not include
17 any information which identifies or could be used to identify any individual
18 patient, provider, institution, or health plan except as provided in § 20-7-
19 305.

20
21 SECTION 4857. Arkansas Code § 20-7-306(a), concerning reports and
22 assistance by the Department of Health under the State Health Data
23 Clearinghouse Act, is amended to read as follows:

24 (a) The ~~Director~~ Secretary of the Department of Health shall prepare
25 and submit a biennial report to the Governor and the House Committee on
26 Public Health, Welfare, and Labor and the Senate Committee on Public Health,
27 Welfare, and Labor or appropriate subcommittees thereof.

28
29 SECTION 4858. Arkansas Code § 20-7-403(5), concerning the definition
30 of "construct" under the Combating Prescription Drug Abuse Act, is amended to
31 read as follows:

32 (5) "Construct" means to acquire, construct, reconstruct,
33 remodel, install, and equip any lands, buildings, structures, improvements,
34 or other property, whether real, personal, or mixed, useful in connection
35 with the expansion, by any method and manner as may be authorized by law, and
36 in the case of the acquisition of equipment and other property of a medical,

1 laboratory, or technical nature, by any method as the board or the ~~Director~~
2 Secretary of the Department of Health determines to be necessary or desirable
3 to accomplish the power, purposes, and authorities set forth in this
4 subchapter and without regard to the provisions of other laws pertaining to
5 the construction and acquisition of property by state agencies;

6
7 SECTION 4859. Arkansas Code § 20-7-403(7), concerning the definition
8 of "Director" under the Combating Prescription Drug Abuse Act, is repealed.

9 ~~(7) "Director" means the Director of the Department of Health;~~

10
11 SECTION 4860. Arkansas Code § 20-7-404(b) and (c), concerning the
12 approval of construction of a laboratory under the Combating Prescription
13 Drug Abuse Act, are amended to read as follows:

14 (b) Subject to the approval of the board, the plans, specifications,
15 and estimates of cost for the laboratory and renovation of the building shall
16 be developed by the ~~Director~~ Secretary of the Department of Health, and the
17 ~~director~~ secretary may employ architects and other like professional and
18 technical assistance as determined to be necessary for the construction of
19 the laboratory and renovation of the building.

20 (c) The board and the ~~director~~ secretary may take such action as may
21 be appropriate for the construction of the laboratory and renovation of the
22 building to accomplish the purposes of this subchapter and may engage legal,
23 technical, and other assistance as necessary.

24
25 SECTION 4861. Arkansas Code § 20-7-405(d), concerning the financing of
26 construction and renovation of a laboratory under the Combating Prescription
27 Drug Abuse Act, is amended to read as follows:

28 (d) The board and the ~~Director~~ Secretary of the Department of Health
29 may execute and deliver agreements, instruments, and other undertakings and
30 writings and take such action as may be appropriate to evidence the loan and
31 the security for the loan and to carry out this subchapter.

32
33 SECTION 4862. Arkansas Code § 20-7-408(a)(1), concerning the
34 disposition of fees under the Combating Prescription Drug Abuse Act, is
35 amended to read as follows:

36 (a)(1) Except as set forth in this subchapter, all fee revenues shall

1 be treated as cash funds and shall not be deposited into the State Treasury,
2 but shall be deposited as and when received into a bank or banks approved by
3 the State Board of Health or the ~~Director~~ Secretary of the Department of
4 Health in an account or accounts of the board designated the "State Board of
5 Health Laboratory Revenue Fund".

6

7 SECTION 4863. Arkansas Code § 20-7-408(c)(2), concerning the
8 disposition of fees under the Combating Prescription Drug Abuse Act, is
9 amended to read as follows:

10 (2) All transfers from the State Board of Health Laboratory
11 Revenue Fund and the State Board of Health Public Health Laboratory
12 Construction Fund shall be made by or at the direction of the ~~director~~
13 secretary.

14

15 SECTION 4864. Arkansas Code § 20-7-408(c)(3)(A), concerning the
16 disposition of fees under the Combating Prescription Drug Abuse Act, is
17 amended to read as follows:

18 (A) The ~~director~~ secretary; or

19

20 SECTION 4865. Arkansas Code § 20-7-409 is amended to read as follows:

21 20-7-409. State Board of Health Public Health Laboratory Construction
22 Fund.

23 The proceeds of the loan other than amounts required to establish
24 reserves, to pay interest on the loan for a period not to exceed one (1)
25 year, or to pay costs of the loan and of issuing bonds, all of which shall be
26 set forth in written directions executed by the ~~Director~~ Secretary of the
27 Department of Health, shall be deposited as cash funds into an account of the
28 State Board of Health designated the "State Board of Health Public Health
29 Laboratory Construction Fund" and disbursed by the ~~director~~ secretary for the
30 construction of the expansion.

31

32 SECTION 4866. Arkansas Code § 20-7-410(a), concerning investment of
33 funds in the State Board of Health Public Health Laboratory Revenue Fund and
34 the State Board of Health Public Health Laboratory Construction Fund, is
35 amended to read as follows:

36 (a) All moneys held at any time in the State Board of Health

1 Laboratory Revenue Fund and the State Board of Health Public Health
2 Laboratory Construction Fund shall be invested and reinvested to the extent
3 feasible, as directed by the ~~Director~~ Secretary of the Department of Health.
4

5 SECTION 4867. Arkansas Code § 20-7-412 is amended to read as follows:
6 20-7-412. Limitations on liability.

7 Neither the ~~Director~~ Secretary of the Department of Health nor any
8 member of the State Board of Health shall be personally liable on the loan or
9 on account of any of the obligations or actions undertaken in connection with
10 the loan, or for any damages sustained by anyone with respect to the
11 obligations or actions, unless he or she acted with a corrupt intent.
12

13 SECTION 4868. Arkansas Code § 20-7-604(d)(2)(D), concerning the
14 requirements for the Prescription Drug Monitoring Program, is amended to read
15 as follows:

16 (D) The State Board of Health may amend, by rule, the
17 exemptions listed in subdivision (d)(2)(C) of this section upon a
18 recommendation from the ~~Director~~ Secretary of the Department of Health and a
19 showing that the exemption or lack of exemption is unnecessarily burdensome
20 or has created a hardship.
21

22 SECTION 4869. Arkansas Code § 20-7-607(a)(1)(A)(i), concerning
23 providing Prescription Drug Monitoring Program information, is amended to
24 read as follows:

25 (a)(1)(A)(i) The Department of Health shall review the Prescription
26 Drug Monitoring Program information, including without limitation a review to
27 identify information that appears to indicate whether a person is obtaining
28 prescriptions in a manner that may represent misuse or abuse of controlled
29 substances based on prescribing criteria determined by the ~~Director~~ Secretary
30 of the Department of Health upon consultation with the Prescription Drug
31 Monitoring Program Advisory Committee.
32

33 SECTION 4870. Arkansas Code § 20-7-614(b), concerning the effective
34 date of the Prescription Drug Monitoring Program, is amended to read as
35 follows:

36 (b) The ~~Director~~ Secretary of the Department of Health may suspend

1 operation of the program if adequate funding under § 20-7-610 ceases.

2
3 SECTION 4871. Arkansas Code § 20-8-104 is amended to read as follows:

4 20-8-104. Health Services Permit Agency – Powers and duties.

5 (a) There is created and established the Health Services Permit
6 Agency, which shall be ~~an independent agency~~ under the supervision and
7 control of the ~~Governor~~ Department of Health.

8 (b) The agency, under the administration of the Department of Health,
9 shall possess and exercise such duties and powers as necessary to implement
10 the policy and procedures adopted by the Health Services Permit Commission.

11 (c) The agency, under the administration of the Department of Health,
12 shall review all applications for permits of approval and approve or deny the
13 application within ninety (90) days from the date the application is deemed
14 complete and submitted for review.

15 (d) The State of Arkansas shall not participate in the capital
16 expenditures review program, otherwise known as the 1122 Program, unless it
17 becomes mandatory for continuation in federal programs authorized under Title
18 V of the Social Security Act, 42 U.S.C. § 701 et seq., Title XIV of the
19 Social Security Act, 42 U.S.C. § 1351 et seq., and Title XVII of the Social
20 Security Act, 42 U.S.C. § 1391 et seq., for all states.

21 (e) The agency, under the administration of the Department of Health,
22 shall assist the commission in the performance of its duties under this
23 subchapter.

24
25 SECTION 4872. Arkansas Code § 20-8-105 is amended to read as follows:

26 20-8-105. Director.

27 (a) There shall be a Director of the Health Services Permit Agency,
28 who shall be the executive head of the Health Services Permit Agency.

29 (b) The director shall be appointed by the Governor, subject to
30 confirmation by the Senate, and shall serve at the pleasure of the Governor.

31 (c) The director shall report to the Secretary of the Department of
32 Health.

33
34 SECTION 4873. Arkansas Code § 20-8-108 is amended to read as follows:

35 20-8-108. Fees and fines.

36 All fees and fines collected under this subchapter shall be deposited

1 into the Miscellaneous Agencies Fund Account to be used exclusively for the
2 maintenance and operation of the Health Services Permit Agency, including any
3 agreements to reimburse the Department of Health for costs associated with
4 the operation of the Health Services Permit Agency.

5
6 SECTION 4874. Arkansas Code § 20-8-110(g), concerning the collection
7 and dissemination of health data, is amended to read as follows:

8 (g) The ~~director~~ Secretary of the Department of Health shall prescribe
9 such rules ~~and regulations~~ as may be necessary to carry out the purpose of
10 this section.

11
12 SECTION 4875. Arkansas Code § 20-8-110(h)(2)(A), concerning the
13 collection and dissemination of health data, is amended to read as follows:

14 (2)(A) The director shall prepare an annual report of the Health
15 Services Permit Agency's findings and submit the report to the ~~Governor~~
16 Secretary of the Department of Health, the General Assembly, and the House
17 Committee on Public Health, Welfare, and Labor and the Senate Committee on
18 Public Health, Welfare, and Labor or appropriate subcommittees thereof.

19
20 SECTION 4876. Arkansas Code § 20-8-203(1)(G), concerning the powers
21 and duties of the Arkansas Spinal Cord Commission, is amended to read as
22 follows:

23 (G) Provide an annual report to the ~~Governor~~ Secretary of
24 the Department of Health, to the General Assembly, and to the public
25 documenting areas of success, unresolved problems, and overall cost-benefit
26 analyses of expenditures from the various sources;

27
28 SECTION 4877. Arkansas Code § 20-8-505(b)(1)(E), concerning the
29 creation and members of the Arkansas Commission for the Newborn Umbilical
30 Cord Blood Initiative, is amended to read as follows:

31 (E) The ~~Director~~ Secretary of the Department of Health or
32 his or her designee.

33
34 SECTION 4878. Arkansas Code § 20-8-506(a)(9), concerning the powers
35 and duties of the Arkansas Commission for the Newborn Umbilical Cord Blood
36 Initiative, is amended to read as follows:

1 (9) If funds are available, request the Department of Health to
2 employ staff and enter into contracts necessary to implement this subchapter,
3 and reimburse the Department of Health for the cost of implementing this
4 subchapter; and
5

6 SECTION 4879. Arkansas Code Title 20, Chapter 8, Subchapter 6, is
7 repealed as the Alzheimer's Advisory Council expired on September 30, 2017.

8 ~~Subchapter 6—Alzheimer's Advisory Council~~

9
10 ~~20-8-601. Findings.~~

11 ~~(a) The General Assembly finds that:~~

12 ~~(1) Alzheimer's disease is a progressive and fatal brain disease~~
13 ~~that destroys brain cells and causes problems with memory, thinking, and~~
14 ~~behavior;~~

15 ~~(2) More than five million four hundred thousand (5,400,000)~~
16 ~~Americans now have Alzheimer's disease;~~

17 ~~(3) Alzheimer's disease is the most common form of dementia and~~
18 ~~is the sixth leading cause of death in the United States; and~~

19 ~~(4) No cure exists for Alzheimer's disease, but treatments for~~
20 ~~symptoms used in conjunction with appropriate services and support can~~
21 ~~improve the quality of life for those living with the disease.~~

22 ~~(b) This section shall expire on September 30, 2017.~~

23
24 ~~20-8-602. Alzheimer's Advisory Council—Creation—Membership.~~

25 ~~(a) There is created the Alzheimer's Advisory Council, to consist of~~
26 ~~twenty-three (23) members as follows:~~

27 ~~(1) Five (5) members appointed by the Speaker of the House of~~
28 ~~Representatives as follows:~~

29 ~~(A) Two (2) members of the House of Representatives;~~

30 ~~(B) One (1) member who has been diagnosed with Alzheimer's~~
31 ~~disease;~~

32 ~~(C) One (1) member to represent the healthcare provider~~
33 ~~community; and~~

34 ~~(D) One (1) member to represent the adult day services~~
35 ~~industry;~~

36 ~~(2) Five (5) members appointed by the President Pro Tempore of~~

1 ~~the Senate as follows:~~

2 ~~(A) Two (2) members of the Senate;~~

3 ~~(B) One (1) member who is a paid caregiver of a person~~
4 ~~with Alzheimer's disease;~~

5 ~~(C) One (1) member to represent the assisted living~~
6 ~~industry; and~~

7 ~~(D) One (1) member who is a scientist who specializes in~~
8 ~~Alzheimer's disease research;~~

9 ~~(3) Four (4) members appointed by the Governor as follows:~~

10 ~~(A) One (1) member who is a physician caring for persons~~
11 ~~diagnosed with Alzheimer's disease;~~

12 ~~(B) One (1) member to represent the nursing facility~~
13 ~~industry;~~

14 ~~(C) One (1) member who is a person active in the state~~
15 ~~chapter of the Alzheimer's Association; and~~

16 ~~(D) One (1) member who is a person active in the~~
17 ~~Alzheimer's Arkansas Programs and Services; and~~

18 ~~(4) Nine (9) members as follows:~~

19 ~~(A) The Director of the Department of Health or his or her~~
20 ~~designee;~~

21 ~~(B) The Director of the Department of Human Services or~~
22 ~~his or her designee;~~

23 ~~(C) The Director of the Division of Aging, Adult, and~~
24 ~~Behavioral Health Services of the Department of Human Services or his or her~~
25 ~~designee;~~

26 ~~(D) The Director of the Arkansas Center for Health~~
27 ~~Improvement or his or her designee;~~

28 ~~(E) The Director of the Department of Workforce Services~~
29 ~~or his or her designee; and~~

30 ~~(F) Four (4) members appointed by the state chapter of the~~
31 ~~Alzheimer's Association to represent Arkansas families that have been~~
32 ~~affected by Alzheimer's disease.~~

33 ~~(b) Members of the council shall be appointed by September 1, 2011.~~

34 ~~(c)(1) Members of the council shall serve at the pleasure of their~~
35 ~~appointing authorities.~~

36 ~~(2) A vacancy on the council shall be filled by the original~~

1 ~~appointing authority.~~

2 ~~(d)(1) The Speaker of the House of Representatives and the President~~
3 ~~Pro Tempore of the Senate shall each designate a cochair from among the~~
4 ~~members of the council.~~

5 ~~(2) The cochairs shall jointly call the first meeting of the~~
6 ~~council.~~

7 ~~(e)(1) A majority of the members of the council shall constitute a~~
8 ~~quorum.~~

9 ~~(2) A majority vote of the members present is required for any~~
10 ~~action of the council.~~

11 ~~(f) Council meetings shall be held in Pulaski County, Arkansas, and at~~
12 ~~other locations in the state as the council shall deem necessary.~~

13 ~~(g) The Bureau of Legislative Research shall provide staff support to~~
14 ~~the council as necessary to assist the council in the performance of its~~
15 ~~duties.~~

16 ~~(h) Legislative members of the council shall be reimbursed for~~
17 ~~expenses and per diem at the same rate and from the same source as provided~~
18 ~~by law for members of the General Assembly attending meetings of the interim~~
19 ~~committees.~~

20 ~~(i) This section shall expire on September 30, 2017.~~

21

22 ~~20-8-603. Duties.~~

23 ~~(a) The Alzheimer's Advisory Council shall:~~

24 ~~(1) Assess the current and future impact of Alzheimer's disease~~
25 ~~and other types of dementia on the residents of the State of Arkansas;~~

26 ~~(2) Examine the existing industries, services, and resources~~
27 ~~addressing the needs of persons living with Alzheimer's disease, their~~
28 ~~families, and caregivers; and~~

29 ~~(3) Develop a strategy to mobilize a state response to the~~
30 ~~public health crisis created by Alzheimer's disease and other types of~~
31 ~~dementia.~~

32 ~~(b) This section shall expire on September 30, 2017.~~

33

34 ~~20-8-604. Reports.~~

35 ~~(a) The Alzheimer's Advisory Council shall present a draft of~~
36 ~~assessments and recommendations for meeting the Alzheimer's disease needs in~~

1 ~~the State of Arkansas to the House Committee on Public Health, Welfare, and~~
2 ~~Labor and the Senate Committee on Public Health, Welfare, and Labor on or~~
3 ~~before October 1 of each even numbered year.~~

4 ~~(b) This section shall expire on September 30, 2017.~~

5
6 SECTION 4880. Arkansas Code § 20-8-702(b)(1)(I), concerning the
7 Palliative Care and Quality of Life Interdisciplinary Task Force, is amended
8 to read as follows:

9 (I) One (1) member, who is appointed in consultation with
10 the ~~Surgeon General~~ Secretary of the Department of Health, who is a
11 palliative care professional with expertise in the following knowledge areas
12 that may include without limitation:

13 (i) Interdisciplinary palliative care;

14 (ii) Medical, nursing, social work, pharmacy, or
15 spiritual services;

16 (iii) Psychosocial issues involved in caregiving for
17 patient and family caregivers or their advocates; and

18 (iv) Palliative care perspectives and challenges
19 across multiple settings, including inpatient, outpatient, and community
20 settings, and across pediatric, youth, adult, and geriatric populations;

21
22 SECTION 4881. Arkansas Code § 20-8-702(b)(2)(B), concerning the
23 Palliative Care and Quality of Life Interdisciplinary Task Force, is amended
24 to read as follows:

25 (B) One (1) member, in consultation with the Arkansas
26 Surgeon General, who is a palliative care professional with expertise in the
27 following knowledge areas that may include without limitation:

28 (i) Interdisciplinary palliative care;

29 (ii) Medical, nursing, social work, pharmacy, or
30 spiritual services;

31 (iii) Psychosocial issues involved in caregiving for
32 patient and family caregivers or their advocates; and

33 (iv) Palliative care perspectives and challenges
34 across multiple settings, including inpatient, outpatient, and community
35 settings, and across pediatric, youth, adult, and geriatric populations; and

36

1 SECTION 4882. Arkansas Code § 20-8-702(b)(3)(B), concerning the
2 Palliative Care and Quality of Life Interdisciplinary Task Force, is amended
3 to read as follows:

4 (B) One (1) member, in consultation with the Arkansas
5 Surgeon General, who is a palliative care professional with expertise in the
6 following knowledge areas that may include without limitation:

7 (i) Interdisciplinary palliative care;

8 (ii) Medical, nursing, social work, pharmacy, or
9 spiritual services;

10 (iii) Psychosocial issues involved in caregiving for
11 patient and family caregivers or their advocates; and

12 (iv) Palliative care perspectives and challenges
13 across multiple settings, including inpatient, outpatient, and community
14 settings, and across pediatric, youth, adult, and geriatric populations.
15

16 SECTION 4883. Arkansas Code § 20-8-702(h), concerning the Palliative
17 Care and Quality of Life Interdisciplinary Task Force, is amended to read as
18 follows:

19 (h) The Department of Health, ~~in conjunction with the Department of~~
20 ~~Human Services~~, shall provide staff, information, and other assistance as
21 reasonably necessary to assist the task force in its efficient organization.
22

23 SECTION 4884. Arkansas Code § 20-9-204(a), concerning the
24 administration of the state plan for the construction of medical facilities
25 by the Division of Health Facilities Services, is amended to read as follows:

26 (a) There is established in the ~~State Board of Health~~ Department of
27 Health a Division of Health Facilities Services, which shall be administered
28 by a full-time salaried administrator under the supervision and direction of
29 the ~~Director~~ Secretary of the Department of Health.
30

31 SECTION 4885. Arkansas Code § 20-9-205 is amended to read as follows:
32 20-9-205. Powers and duties of State Board of Health.

33 (a) In carrying out this subchapter, the State Board of Health is
34 empowered and directed to:

35 (1) Require such reports, make such inspections and
36 investigations, and prescribe and enforce such reasonable rules and

1 regulations as it finds necessary to effectuate the purposes of this
2 subchapter;

3 (2) Provide methods of administration ~~and appoint an~~
4 ~~administrator and other personnel~~ of the Division of Health Facilities
5 Services;

6 (3) Procure and pay for the temporary services of experts or
7 consultants on a fee-for-service basis;

8 (4) Enter into agreements for the utilization of the facilities
9 and services of other departments, agencies, and institutions, public and
10 private;

11 (5) Accept on behalf of the state, and deposit with the
12 Treasurer of State, any grant, gift, or contribution of funds made to assist
13 in meeting the cost of carrying out the purposes of this subchapter, and
14 expend such funds accordingly;

15 (6) Make an annual report to the ~~Governor~~ Secretary of the
16 Department of Health on activities and expenditures made pursuant to this
17 subchapter;

18 (7) Procure the services of an attorney to assist the Department
19 of Health in any legal work involved in carrying out the duties of the
20 department and to pay for the services on a fee-for-service or retainer
21 basis; and

22 (8) Prescribe and enforce such reasonable rules and regulations
23 as are necessary to adopt a uniform billing form for hospitals within the
24 state and to prescribe penalties for the failure or refusal to utilize and
25 accept such forms. However, the form must be acceptable by Medicare and its
26 intermediaries within the state and consistent with the form adopted at the
27 federal level by Medicare and the National Uniform Billing Committee.

28 (b) The department shall adopt, promulgate, and enforce such rules,
29 regulations, and standards as may be necessary for the accomplishment of the
30 purposes of this subchapter. The rules, regulations, and standards shall be
31 modified, amended, or rescinded, from time to time, by the department as may
32 be in the public interest.

33

34 SECTION 4886. Arkansas Code § 20-9-207(d), concerning the federal
35 funds for surveying and planning construction programs, is amended to read as
36 follows:

1 (d) Warrants for all payments from the fund shall bear the signature
2 of the ~~Director~~ Secretary of the Department of Health or his or her agent.

3
4 SECTION 4887. Arkansas Code § 20-9-211(c), concerning the federal
5 funds for surveying and planning construction programs, is amended to read as
6 follows:

7 (c) Warrants for all payments from the fund shall bear the signature
8 of the ~~Director~~ Secretary of the Department of Health or his or her agent.

9
10 SECTION 4888. Arkansas Code § 20-9-217(b), concerning alterations,
11 additions, and new construction of facilities under the Division of Health
12 Facilities Services, is amended to read as follows:

13 (b)(1) ~~From time to time, the Director~~ The Secretary of the Department
14 of Health or his or her agent shall inspect each construction project
15 approved by the ~~United~~ United States Surgeon General.

16 (2) If the inspection so warrants, the ~~director~~ secretary or his
17 or her agent shall certify to the United States Surgeon General that work has
18 been performed upon the project, or purchases have been made, in accordance
19 with the approved plans and specifications, and that payment of an
20 installment of federal funds is due the applicant.

21
22 SECTION 4889. Arkansas Code § 20-9-1003(b), concerning the creation of
23 the Acute Stroke Care Task Force, is amended to read as follows:

24 (b) The ~~Director~~ Secretary of the Department of Health shall appoint:

25 (1) One (1) member to represent the Department of Health;

26 (2) One (1) member to represent the American Heart Association
27 and the American Stroke Association;

28 (3) One (1) member to represent the Arkansas Minority Health
29 Commission;

30 (4) One (1) member to represent the Arkansas Hospital
31 Association, Inc.;

32 (5) One (1) member to represent the Arkansas Foundation for
33 Medical Care, Inc.;

34 (6) One (1) member to represent the Fay W. Boozman College of
35 Public Health of the University of Arkansas for Medical Sciences;

36 (7) One (1) member to represent the Division of Medical Services

- 1 within the Department of Human Services;
- 2 (8) One (1) member to represent emergency medical services;
- 3 (9) One (1) member to represent the Arkansas Medical Society,
- 4 Inc.;
- 5 (10) One (1) member to represent the medical insurance industry;
- 6 (11) One (1) member to represent the community at large; and
- 7 (12) One (1) member to represent the Arkansas Medical, Dental,
- 8 and Pharmaceutical Association, Inc.

9

10 SECTION 4890. Arkansas Code § 20-9-1003(d), concerning the creation of

11 the Acute Stroke Care Task Force, is amended to read as follows:

12 (d) If a vacancy occurs, the ~~director~~ secretary shall appoint a person

13 who represents the same constituency as the member being replaced.

14

15 SECTION 4891. Arkansas Code § 20-9-1102(b), concerning the creation of

16 the Cervical Cancer Task Force, is amended to read as follows:

17 (b) The ~~Director~~ Secretary of the Department of Health shall appoint:

- 18 (1) One (1) member to represent the Department of Health;
- 19 (2) One (1) member to represent the American Cancer Society;
- 20 (3) One (1) member to represent the Arkansas Minority Health
- 21 Commission;
- 22 (4) One (1) member to represent the Arkansas Hospital
- 23 Association, Inc.;
- 24 (5) One (1) member to represent the Arkansas Foundation for
- 25 Medical Care, Inc.;
- 26 (6) One (1) member to represent the Fay W. Boozman College of
- 27 Public Health of the University of Arkansas for Medical Sciences;
- 28 (7) One (1) member to represent the Division of Medical Services
- 29 of the Department of Human Services;
- 30 (8) One (1) member to represent primary care physicians;
- 31 (9) One (1) member to represent the Arkansas Medical Society,
- 32 Inc.;
- 33 (10) One (1) member to represent the medical insurance industry;
- 34 (11) One (1) member to represent the community at large; and
- 35 (12) One (1) member to represent the Arkansas Medical, Dental,
- 36 and Pharmaceutical Association, Inc..

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SECTION 4892. Arkansas Code § 20-9-1102(d), concerning the creation of the Cervical Cancer Task Force, is amended to read as follows:

(d) If a vacancy occurs, the ~~director~~ secretary shall appoint a person who represents the same constituency as the member being replaced.

SECTION 4893. Arkansas Code § 20-9-1204(a), concerning the Advisory Committee on Healthcare Acquired Infections, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall appoint an Advisory Committee on Healthcare Acquired Infections, including without limitation representatives of:

(1) Public and private hospitals, including representatives of hospitals with fewer than fifty (50) beds and representatives of hospitals with more than fifty (50) beds;

(2) Outpatient surgery centers;

(3) Direct-care nursing staff;

(4) Physicians;

(5) Infection-control professionals with expertise in healthcare-associated infections;

(6) Academic researchers; and

(7) At least one (1) representative of a consumer organization.

SECTION 4894. Arkansas Code § 20-9-1402(a), concerning the establishment of the shaken baby syndrome education program, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall establish the shaken baby syndrome education program by:

(1) Not later than one (1) year after August 16, 2013, developing educational materials that present readily comprehensible information for new parents on shaken baby syndrome; and

(2) Making available on the Department of Health website in an easily accessible format the educational materials developed under subdivision (a)(1) of this section.

SECTION 4895. Arkansas Code § 20-9-1402(c)(1), concerning the establishment of the shaken baby syndrome education program, is amended to

1 read as follows:

2 (c)(1) Annually beginning on or before January 1, 2014, the ~~director~~
3 secretary shall assess the effectiveness of the shaken baby syndrome
4 education program.

5

6 SECTION 4896. Arkansas Code § 20-13-206(f), concerning the proceedings
7 of the Emergency Medical Services Advisory Council, is amended to read as
8 follows:

9 (f)(1) The council shall report in writing to the ~~Governor~~ Secretary
10 of the Department of Health on or about July 31 of each year.

11 (2) The report shall contain a summary of the proceedings of the
12 council during the preceding fiscal year, a detailed and itemized statement
13 of all revenue and of all expenditures made by or in behalf of the council,
14 other information deemed necessary or useful, and any additional information
15 which may be requested by the ~~Governor~~ secretary.

16

17 SECTION 4897. Arkansas Code § 20-13-503(4), concerning the definition
18 of "director" under the PC-DI-TL program, is repealed.

19 ~~(4) "Director" means the Director of the Department of Health;~~

20

21 SECTION 4898. Arkansas Code § 20-13-505 is amended to read as follows:
22 20-13-505. Authority of ~~director~~ secretary.

23 (a) The ~~Director~~ Secretary of the Department of Health may:

24 (1) Employ any coordination measures necessary to effectuate the
25 purposes of this subchapter within and among the responsible components;

26 (2) Engage in any educational program or effort undertaken in
27 partnership with county or municipal governmental agencies or other groups
28 if, in his or her judgment, such activity would effectuate the purposes of
29 this subchapter;

30 (3) Authorize any component within the system to employ experts
31 and consultants and compensate those individuals at rates determined by the
32 ~~director~~ secretary in consultation with component representatives of the
33 University of Arkansas for Medical Sciences; and

34 (4) Engage in programs of experimental or demonstration
35 research.

36 (b) Additionally, the ~~director~~ secretary may accept and administer

1 loans, grants, or other funds and gifts, conditional or otherwise, from the
2 United States Government and any other public or private sources. In all such
3 transactions, the PC-DI-TL system shall remain unitary, and the ~~director~~
4 secretary shall allow no function which might require the separation of the
5 components.

6 (c) The ~~director~~ secretary shall have full authority, in consultation
7 with the two (2) University of Arkansas for Medical Sciences components of
8 the PC-DI-TL system, to formulate, promulgate, adopt, amend, and enforce
9 rules, regulations, and regulatory standards necessary to effectuate this
10 subchapter in a way consistent with § 10-3-309.

11
12 SECTION 4899. Arkansas Code § 20-13-506(a)(2), concerning the creation
13 of the advisory committee for the PC-DI-TL program, is amended to read as
14 follows:

15 (2) The committee shall consist of an uneven number of persons,
16 not to exceed seven (7), appointed by the ~~Director~~ Secretary of the
17 Department of Health.

18
19 SECTION 4900. Arkansas Code § 20-13-506(b)(3), concerning the creation
20 of the advisory committee for the PC-DI-TL program, is amended to read as
21 follows:

22 (3) In the selection of members, the ~~director~~ secretary shall
23 appoint only those persons with professional expertise in poison control,
24 drug information, toxicological laboratory services, or other health and
25 safety fields.

26
27 SECTION 4901. Arkansas Code § 20-13-506(d), concerning the creation of
28 the advisory committee for the PC-DI-TL program, is amended to read as
29 follows:

30 (d) Any reasonable administrative and technical assistance required by
31 the committee shall be provided by the ~~director~~ secretary in consultation
32 with the UAMS-Pharmacy and UAMS-Library permanent components of the PC-DI-TL
33 program.

34
35 SECTION 4902. Arkansas Code § 20-13-508(a), concerning the designation
36 of personnel within the PC-DI-TL services system, is amended to read as

1 follows:

2 (a) Each permanent component within the PC-DI-TL services system shall
3 designate those persons within the component department who shall have
4 responsibility for implementing and developing this toxicology services
5 system, and each shall provide written notice of the designations to the
6 ~~Director~~ Secretary of the Department of Health.

7

8 SECTION 4903. Arkansas Code § 20-13-511 is amended to read as follows:
9 20-13-511. Recordkeeping and reporting.

10 Each of the University of Arkansas for Medical Sciences components, the
11 Arkansas Poison and Drug Information Center, the Library of the University of
12 Arkansas for Medical Sciences for nonemergency poison and drug information,
13 and the Chemistry Branch of the Public Health Laboratory of the Department of
14 Health, shall make available to the ~~Director~~ Secretary of the Department of
15 Health, in such manner, form, or at such times as he or she shall require,
16 copies of records and reports regarding all activities authorized and
17 developed pursuant to this subchapter.

18

19 SECTION 4904. Arkansas Code § 20-13-807(d), concerning the creation of
20 the Trauma Advisory Council, is amended to read as follows:

21 (d) The ~~Director~~ Secretary of the Department of Health or his or her
22 designee shall serve as a nonvoting ex officio member of the Trauma Advisory
23 Council.

24

25 SECTION 4905. Arkansas Code § 20-13-820 is amended to read as follows:
26 20-13-820. Reports to the General Assembly.

27 The ~~Director~~ Secretary of the Department of Health shall provide a
28 report to the Senate Committee on Public Health, Welfare, and Labor and the
29 House Committee on Public Health, Welfare, and Labor on or before April 1 and
30 October 1 of each year through 2011. After 2011, the ~~director~~ secretary shall
31 provide an annual report to the Senate Committee on Public Health, Welfare,
32 and Labor and the House Committee on Public Health, Welfare, and Labor on or
33 before October 1.

34

35 SECTION 4906. Arkansas Code § 20-13-1106(a), concerning disqualifying
36 offenses for certification or recertification and waivers, is amended to read

1 as follows:

2 (a) Except as provided in subdivision (e)(1) of this section, the
3 Division of Emergency Medical Services shall issue a determination that a
4 person is disqualified from certification or recertification if the person
5 has been found guilty of or has pleaded guilty or nolo contendere to any of
6 the offenses listed in subsection (b) of this section, including offenses for
7 which the record has been expunged. However, the Division of Emergency
8 Medical Services shall forward a request for a waiver to the ~~Director~~
9 Secretary of the Department of Health on all applicants who have been
10 convicted of the crimes listed in subsection (b) of this section if five (5)
11 years have passed since the conviction, if five (5) years have passed since
12 release from custodial confinement, or if the applicants are currently
13 certified emergency medical technicians, before making the final
14 determination on certification or recertification. These individuals will not
15 be suspended before the ~~director's~~ secretary's making the final
16 determination.

17

18 SECTION 4907. Arkansas Code § 20-13-1106(d)(2), concerning
19 disqualifying offenses for certification or recertification and waivers, is
20 amended to read as follows:

21 (2) The written request for waiver shall be mailed to the
22 ~~director~~ secretary within fifteen (15) calendar days after receipt of the
23 determination by the Department of Health.

24

25 SECTION 4908. Arkansas Code § 20-13-1201(3), concerning the definition
26 of "director" under the vaccination program for first responders, is
27 repealed.

28 ~~(3) "Director" means the Director of the Department of Health;~~

29

30 SECTION 4909. Arkansas Code § 20-14-804(b), concerning the Advisory
31 Board for Interpreters between Hearing Individuals and Individuals who are
32 Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as
33 follows:

34 (b) The board shall consist of seven (7) members appointed by the
35 ~~Director~~ Secretary of the Department of Health as follows:

36 (1) Four (4) licensed qualified interpreters appointed from a

1 list of eight (8) submitted by the Arkansas Registry of Interpreters for the
2 Deaf, Inc. in conjunction with the Arkansas Association for the Deaf;

3 (2) Two (2) members appointed from a list of four (4) submitted
4 by the Arkansas Association for the Deaf in conjunction with the Arkansas
5 Registry of Interpreters for the Deaf, Inc. who are deaf persons, hard of
6 hearing persons, or oral deaf persons not licensed under this subchapter; and

7 (3) One (1) member appointed from a list of two (2) submitted by
8 the Arkansas Association for the Deaf in conjunction with the Arkansas
9 Registry of Interpreters for the Deaf, Inc. who are neither individuals who
10 are deaf, deafblind, hard of hearing, or oral deaf and who are not licensed
11 under this subchapter.

12
13 SECTION 4910. Arkansas Code § 20-14-804(e), concerning the Advisory
14 Board for Interpreters between Hearing Individuals and Individuals who are
15 Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is amended to read as
16 follows:

17 (e) If a vacancy occurs on the board, the ~~director~~ secretary shall
18 appoint to complete the term vacated a person who possesses the same
19 qualifications as those required for the position to which he or she is
20 appointed.

21
22 SECTION 4911. Arkansas Code § 20-14-805(b), concerning the powers and
23 duties of the Advisory Board for Interpreters between Hearing Individuals and
24 Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf, is
25 amended to read as follows:

26 (b) The Advisory Board for Interpreters between Hearing Individuals
27 and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf shall
28 review and recommend to the ~~Director~~ Secretary of the Department of Health:

29 (1) Acceptance or rejection of applications for licensure and
30 renewal of licenses for interpreters for the deaf, deafblind, hard of
31 hearing, and oral deaf;

32 (2) Criteria for issuance and renewal of licenses for licensed
33 qualified interpreters;

34 (3) Criteria for issuance and continuance of provisional
35 licenses;

36 (4) Fees for licensure and licensure renewal under this

1 subchapter;

2 (5) Suspension or revocation of licenses under this subchapter;

3 (6) Procedures for receiving and investigating complaints under
4 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

5 (7) Rules to ensure that an interpreting agency provides only
6 licensed qualified interpreters for services under this subchapter;

7 (8) Rules regarding conflicts of interest regarding members of
8 the Advisory Board for Interpreters between Hearing Individuals and
9 Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf;

10 (9)(A) A code of professional conduct.

11 (B) The code of professional conduct shall provide, at a
12 minimum, that:

13 (i) A licensed qualified interpreter shall make a
14 true interpretation in an understandable manner to an individual who is deaf,
15 deafblind, hard of hearing, or oral deaf for whom the licensed qualified
16 interpreter is appointed and that the licensed qualified interpreter will
17 interpret accurately the statements of the individual who is deaf or hard of
18 hearing who desires that his or her statements be made in English to the best
19 of the licensed qualified interpreter's skill and judgment; and

20 (ii) All information that a licensed qualified
21 interpreter gathers, learns from, or relays to an individual who is deaf,
22 deafblind, hard of hearing, or oral deaf during an administrative, civil, or
23 criminal proceeding shall remain confidential and privileged unless the
24 individual who is deaf, deafblind, hard of hearing, or oral deaf desires that
25 the information be communicated to other persons; and

26 (10) A continuing education program for licensed qualified
27 interpreters.

28

29 SECTION 4912. Arkansas Code § 20-14-806(a), concerning the powers and
30 duties of the Director of the Department of Health, is amended to read as
31 follows:

32 (a) After consideration of the recommendation of the Advisory Board
33 for Interpreters between Hearing Individuals and Individuals who are Deaf,
34 Deafblind, Hard of Hearing, or Oral Deaf, the ~~Director~~ Secretary of the
35 Department of Health shall:

36 (1) Issue or deny a license or a renewal of license of a

1 licensed qualified interpreter;

2 (2) Issue or deny a license or a renewal of a licensed
3 provisional interpreter license;

4 (3) Confirm or overrule a recommendation to revoke or suspend a
5 license for an interpreter between a hearing individual and an individual who
6 is deaf, deafblind, hard of hearing, or oral deaf;

7 (4) Create and maintain a registry of licensed qualified
8 interpreters; and

9 (5) Establish reasonable fees for licensure and renewal of
10 licensure.

11

12 SECTION 4913. Arkansas Code § 20-15-202 is amended to read as follows:
13 20-15-202. State cancer plan.

14 A task force consisting of public and private entities shall be
15 established by the ~~Director~~ Secretary of the Department of Health to assist
16 the Department of Health in developing a strategic plan for a coordinated,
17 comprehensive, statewide network of cancer resources, services, and programs.
18

19 SECTION 4914. Arkansas Code § 20-15-401(b), concerning the duty of a
20 physician to report cases of suspected cases of Reye's syndrome diseases, is
21 amended to read as follows:

22 (b) The report shall be made as promptly as possible from the time the
23 physician first visits, examines, or prescribes for the patient, and the
24 report shall state the name, age, sex, race, usual residence, place where the
25 patient is to be found, the nature of the disease, the date of onset, and any
26 additional information that the ~~Director~~ Secretary of the Department of
27 Health may require.
28

29 SECTION 4915. Arkansas Code § 20-15-602(a)(3), concerning the creation
30 and members of the State Kidney Disease Commission, is amended to read as
31 follows:

32 (3) ~~The Commissioner of the Arkansas Rehabilitation Services of~~
33 ~~the Department of Career Education~~ Secretary of the Department of Health, or
34 his or her designee, shall be a member of the commission and shall serve as
35 secretary and disbursing officer of funds appropriated to the commission for
36 the treatment and cure of renal diseases.

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SECTION 4916. Arkansas Code § 20-15-604(a), concerning the advisory association to the State Kidney Disease Commission, is amended to read as follows:

(a) In developing rules and regulations and in determining standards for determining eligibility for financial assistance to persons suffering from chronic renal diseases who require lifesaving care and treatment for such renal diseases, the State Kidney Disease Commission shall consult with and obtain the advice of the Arkansas Association for Kidney Disease, Inc., a nonprofit corporation organized under the laws of this state. This organization is recognized as the representative body to serve as an advisory association to the commission and to the deputy director of the appropriate division as determined by the ~~Director~~ Secretary of the Department of Health in carrying out their functions and duties under this subchapter.

SECTION 4917. Arkansas Code § 20-15-605 is amended to read as follows:

20-15-605. State Kidney Disease Commission – Disbursement of funds.

(a) ~~The Commissioner of the Arkansas Rehabilitation Services of the Department of Career Education~~ Secretary of the Department of Health shall be the disbursing officer of funds appropriated by the General Assembly and of other funds made available to the State Kidney Disease Commission for such purposes. These funds are to provide monetary assistance to defray the cost incurred by patients suffering from acute or chronic renal disease who are unable to meet the total cost of their care or treatment from their own resources or from third-party resources.

(b) The ~~commissioner~~ secretary shall be governed by the policies, rules and regulations, and procedures promulgated by the commission in disbursing funds appropriated, or otherwise made available, to the commission for renal disease treatment purposes.

SECTION 4918. Arkansas Code § 20-15-701 is amended to read as follows:

20-15-701. Definition.

As used in this subchapter, “active tuberculosis” means that the disease is in a communicable or infectious stage as established by chest X ray, microscopical examination of sputum, or other diagnostic procedures approved ~~jointly~~ by the ~~Director~~ Secretary of the Department of Health ~~and~~

1 ~~the medical director of either the Arkansas Tuberculosis Sanatorium or the~~
2 ~~Arkansas State Hospital.~~

3
4 SECTION 4919. Arkansas Code § 20-15-709(b), concerning the discharge
5 of a person committed, is amended to read as follows:

6 (b) The superintendent of the institution shall report each discharge
7 with a full statement of reasons therefor at once to the ~~Director~~ Secretary
8 of the Department of Health, to the county health officer of the county where
9 the person was committed, and to the clerk of the court from which the person
10 was committed.

11
12 SECTION 4920. Arkansas Code § 20-15-1003 is amended to read as
13 follows:

14 20-15-1003. Advisory committee.

15 (a) To assure the safety and accuracy of screening and diagnostic
16 mammography and to promote the highest quality imaging in the most efficient
17 setting to contain costs, radiological standards, and quality assurance
18 programs shall be established and administered by the ~~Director~~ Secretary of
19 the Department of Health.

20 (b) To assist the ~~Director~~ Secretary of the Department of Health in
21 establishing the quality standards, there is created an advisory committee to
22 be composed of:

23 (1) The Director of Mammography at the University of Arkansas
24 for Medical Sciences, or his or her designee;

25 (2) The Chair of the Breast Screening Project of the Arkansas
26 Division of the American Cancer Society, or his or her designee;

27 (3) A physician appointed by the Arkansas Medical Society, Inc.
28 or his or her designee;

29 (4) A health physicist from the Radiation Control Section of the
30 Department of Health, or his or her designee;

31 (5) A medical physicist with experience and training in
32 mammography procedures appointed by the ~~Director~~ Secretary of the Department
33 of Health;

34 (6) A registered X-ray technologist with experience and training
35 in mammography practices and procedures appointed by the ~~Director~~ Secretary
36 of the Department of Health; and

1 (7) The President of the Arkansas Chapter of the American
2 College of Radiology, or his or her designee.

3 (c) The committee and the ~~Director~~ Secretary of the Department of
4 Health shall continuously review and revise the quality standards in light of
5 current scientific knowledge, but no less frequently than one (1) time every
6 year.

7
8 SECTION 4921. Arkansas Code § 20-15-1004(a)(1), concerning the
9 accreditation of facilities under the federal Mammography Quality Standards
10 Act of 1992, is amended to read as follows:

11 (a)(1) The ~~Director~~ Secretary of the Department of Health shall
12 establish quality standards for accreditation of facilities wherein
13 mammography may be conducted in accordance with the Mammography Quality
14 Standards Act of 1992, Pub. L. No. 102-539 (21 C.F.R. Part 900).

15
16 SECTION 4922. Arkansas Code § 20-15-1502(4), concerning the definition
17 of "director" under the laws establishing the Universal Newborn Hearing
18 Screening, Tracking, and Intervention Advisory Board, is repealed.

19 ~~(4) "Director" means the Director of the Department of Health;~~

20
21 SECTION 4923. Arkansas Code § 20-15-1903(2), concerning the definition
22 of "high risk" under the Colorectal Cancer Prevention, Early Detection, and
23 Treatment Act, is amended to read as follows:

24 (2) Any additional or expanded definition of "persons at high
25 risk for colorectal cancer" as recognized by medical science and determined
26 by the ~~Director~~ Secretary of the Department of Health in consultation with
27 the University of Arkansas for Medical Sciences.

28
29 SECTION 4924. Arkansas Code § 20-15-1906 is amended to read as
30 follows:

31 20-15-1906. Colorectal Cancer Prevention, Early Detection, and
32 Treatment Advisory Committee.

33 (a) There is created a Colorectal Cancer Prevention, Early Detection,
34 and Treatment Advisory Committee to advise the ~~Director~~ Secretary of the
35 Department of Health on matters of concern under this subchapter.

36 (b) The ~~director~~ secretary shall appoint:

- 1 (1) One (1) member to represent the Department of Health;
2 (2) One (1) member to represent the target population of this
3 subchapter;
4 (3) One (1) member who specializes in primary care or
5 gastrointestinal medicine to represent the Arkansas Medical Society, Inc.;
6 (4) One (1) member who specializes in primary care or
7 gastrointestinal medicine to represent the Arkansas Medical, Dental and
8 Pharmaceutical Association, Inc.;
- 9 (5) One (1) member who is a surgical oncologist physician;
10 (6) One (1) member who is a radiation oncologist physician;
11 (7) One (1) member to represent the Arkansas Nurses Association;
12 (8) One (1) member who is a behavioral health scientist;
13 (9) One (1) member who is a medical oncologist physician;
14 (10) One (1) member to represent the area health education
15 centers;
- 16 (11) One (1) member who is a colorectal cancer survivor;
17 (12) One (1) member to represent the American Cancer Society;
18 (13) One (1) member to represent the Community Health Centers of
19 Arkansas; and
20 (14) One (1) member selected from the Arkansas Minority Health
21 Commission.
- 22 (c) The ~~director~~ secretary shall ensure that the membership is
23 representative of the four (4) congressional districts.
- 24 (d) Terms of committee members shall be three (3) years except for the
25 initial members whose terms shall be determined by lot so as to stagger terms
26 to equalize as nearly as possible the number of members to be appointed each
27 year.
- 28 (e) If a vacancy occurs, the ~~director~~ secretary shall appoint a person
29 who represents the same constituency as the member being replaced.
- 30 (f) The committee shall elect one (1) of its members to act as chair
31 for a term of one (1) year.
- 32 (g) A majority of the members shall constitute a quorum for the
33 transaction of business.
- 34 (h) The committee shall meet at least quarterly to study developments
35 in programs created under this subchapter and to assist the ~~director~~
36 secretary in improving existing programs and developing new programs.

1 (i) The department shall provide office space and staff for the
2 committee.

3 (j) Members of the committee shall serve without pay but may receive
4 expense reimbursement in accordance with § 25-16-902 if funds are available.
5

6 SECTION 4925. Arkansas Code § 20-16-101 is repealed.

7 ~~20-16-101. Authorization to continue the Mississippi County Midwife
8 Program.~~

9 ~~The Director of the Department of Health may continue the Mississippi
10 County Midwife Program utilizing available state and federal funding.~~
11

12 SECTION 4926. Arkansas Code § 20-16-203(c)(3), concerning the advisory
13 commission to the Arkansas Reproductive Health Monitoring System, is amended
14 to read as follows:

15 (3) The ~~Director~~ Secretary of the Department of Health;
16

17 SECTION 4927. Arkansas Code § 20-16-507(b), concerning the requirement
18 of testing pregnant women, is amended to read as follows:

19 (b) For the purpose of this section, a standard serological test shall
20 be a test for syphilis, human immunodeficiency virus, and Hepatitis B,
21 approved or authorized by the Centers for Disease Control and Prevention, and
22 approved by the ~~Director~~ Secretary of the Department of Health and shall be
23 made at the division's laboratory or at another laboratory approved to make
24 such tests.
25

26 SECTION 4928. Arkansas Code § 20-16-1110(c), concerning civil remedies
27 to be brought against a person who performed an abortion, is amended to read
28 as follows:

29 (c)(1) If the Department of Health fails to issue the public report
30 required under § 20-16-1108, any group of ten (10) or more citizens of this
31 state may seek an injunction in a court of competent jurisdiction against the
32 ~~Director~~ Secretary of the Department of Health requiring that a complete
33 report be issued within a period established by the court.

34 (2) Failure of the ~~director~~ secretary to obey an injunction
35 issued under subdivision (c)(1) of this section is punishable as civil
36 contempt.

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SECTION 4929. Arkansas Code § 20-18-203(a), concerning the State Registrar of Vital Records, is amended to read as follows:

(a) The ~~Director~~ Secretary of the Department of Health shall appoint the State Registrar of Vital Records.

SECTION 4930. Arkansas Code § 20-19-309(a), concerning the area of quarantine, is amended to read as follows:

(a)(1) The ~~Director~~ Secretary of the Department of Health shall place certain areas under a rabies quarantine upon request of proper local officials.

(2) In serious situations, the ~~director~~ secretary may place the area under quarantine without waiting for a local request.

SECTION 4931. Arkansas Code § 20-19-311 is amended to read as follows:
20-19-311. Administration by ~~Director~~ Secretary of the Department of Health.

The ~~Director~~ Secretary of the Department of Health or his or her official representative shall have the responsibility for carrying out the provisions of this subchapter.

SECTION 4932. Arkansas Code § 20-19-406(c)(3), concerning vaccination of wolves and wolf-dog hybrids, is amended to read as follows:

(3) Upon written order by the ~~Director~~ Secretary of the Department of Health or a specifically designated representative, any biting animal determined to be at significant risk for the transmission of rabies shall be humanely killed and the brain tissue submitted for testing; and

SECTION 4933. Arkansas Code Title 20, Chapter 20, Subchapter 3, is repealed.

~~Subchapter 3 — Pesticides and Chemicals Safe for Children Hand Harvesting
Crops~~

~~20-20-301. Approved chemicals — Safe reentry times.~~

~~(a) The Director of the Department of Health may establish by regulation a list of approved pesticides and other agricultural chemicals~~

1 ~~which are safe for the occupational exposure of children twelve (12) and~~
2 ~~thirteen (13) years of age employed in hand harvesting short season crops.~~

3 ~~(b) The director also may establish by regulation safe reentry times~~
4 ~~for children twelve (12) and thirteen (13) years of age so employed.~~

5
6 ~~20-20-302. Assessment fees.~~

7 ~~(a) Any employer, individual, corporation, group, or association which~~
8 ~~proposes the approval of any pesticide or other agricultural chemical for~~
9 ~~inclusion on this list shall pay the Department of Health a fee for~~
10 ~~conducting any necessary study or risk assessment.~~

11 ~~(b) The fee shall be established by regulation of the department and~~
12 ~~shall be deposited into the State Treasury to the Public Health Fund Account.~~

13
14 ~~20-20-303. Hand harvesting by children.~~

15 ~~Children twelve (12) years of age and older may be employed to hand-~~
16 ~~harvest short season crops, provided that:~~

17 ~~(1) School is not in session;~~

18 ~~(2) Written parental consent has been obtained by the employer;~~

19 ~~(3) An employment certificate has been obtained from the~~
20 ~~Director of the Department of Labor pursuant to § 11-6-109;~~

21 ~~(4) No pesticide or other agricultural chemical has been used on~~
22 ~~the crop except those approved by the Department of Health pursuant to § 20-~~
23 ~~20-301; and~~

24 ~~(5) Any pesticide or other agricultural chemical used on the~~
25 ~~crop has been applied and utilized in compliance with the worker protection~~
26 ~~standards established by the United States Environmental Protection Agency~~
27 ~~and the department.~~

28
29 SECTION 4934. Arkansas Code § 20-21-203(18), concerning the definition
30 of "Director" under the laws governing ionizing radiation, is repealed.

31 ~~(18) "Director" means the Director of the Department of Health;~~
32

33 SECTION 4935. Arkansas Code § 20-21-206(b), concerning employees of
34 the State Radiation Control Agency, is amended to read as follows:

35 (b) The ~~Director~~ Secretary of the Department of Health shall designate
36 an individual to perform the functions vested in the agency pursuant to this

1 subchapter.

2

3 SECTION 4936. Arkansas Code § 20-21-207(10)(A), concerning the powers
4 and duties of the State Radiation Control Agency, is amended to read as
5 follows:

6 (10)(A) Allow the ~~Director~~ Secretary of the Department of Health
7 or his or her authorized representative to require the posting of a bond by
8 licensees to provide funds in the event of abandonment, default, or other
9 inability of the licensee to meet the requirements of the agency. The agency
10 may establish bonding requirements by classes of licensee and by range of
11 monetary amounts. In establishing the requirements, the agency shall give
12 consideration to the potential for contamination, injury, cost of disposal,
13 and reclamation of the property.

14

15 SECTION 4937. Arkansas Code § 20-21-207(10)(C) and (D), concerning the
16 powers and duties of the State Radiation Control Agency, are amended to read
17 as follows:

18 (C) A bond deemed acceptable in Arkansas shall be a bond
19 issued by a fidelity or surety company authorized to do business in Arkansas,
20 a personal bond secured by such collateral as the ~~director~~ secretary deems
21 satisfactory, a cash bond, or a letter of credit.

22 (D)(i) All state, local, or other governmental agencies or
23 subdivisions shall be exempt from the requirements of this subdivision (10).

24 (ii) The ~~director~~ secretary may exempt classes of
25 licensees from the requirements of this section when a finding is made that
26 the exemption will not result in a significant risk to the public health and
27 safety; and

28

29 SECTION 4938. Arkansas Code § 20-21-207(11)(A), concerning the powers
30 and duties of the State Radiation Control Agency, is amended to read as
31 follows:

32 (11)(A) Allow the ~~director~~ secretary or his or her authorized
33 representative to require a licensee to deposit funds on an annual,
34 semiannual, or quarterly basis into a trust fund established for the
35 exclusive purpose set out in this subdivision (11). The Perpetual Maintenance
36 Fund shall be defined so as to embrace each of the following:

1 (i) A source of revenue to provide for perpetual
2 care and surveillance of a radioactive waste concentration, storage, and
3 disposal site as described in subdivision (9) of this section or a source of
4 revenue to provide for perpetual care and surveillance of a formerly licensed
5 activity still containing or having associated with it radioactive material,
6 the activity having ceased to operate by reason of default, abandonment, or
7 decommissioning;

8 (ii) The Perpetual Maintenance Fund shall have two
9 (2) inputs:

10 (a) Fees which are contributed by the lessee
11 or licensee resulting from the operation of concentrating, storing, or
12 disposing of radioactive material as set forth in subdivision (9) of this
13 section; and

14 (b) Moneys accrued as interest on a trust fund
15 established by a licensee. These funds shall be automatically transferred to
16 the Perpetual Maintenance Fund in the event of default, abandonment, or
17 decommissioning;

18 (iii) Moneys in the Perpetual Maintenance Fund shall
19 be appropriated to the agency for use in a way consonant with this
20 subchapter, including such items as perpetual care, maintenance, and
21 surveillance; and

22 (iv) All licensee contributions to the Perpetual
23 Maintenance Fund shall be payable to the ~~director~~ secretary and deposited by
24 the Treasurer of State.

25
26 SECTION 4939. Arkansas Code § 20-21-207(11)(F), concerning the powers
27 and duties of the State Radiation Control Agency, is amended to read as
28 follows:

29 (F) If a person licensed by any governmental agency other
30 than the State of Arkansas desires to transfer a site to the state for the
31 purpose of administering or providing perpetual care, a lump-sum deposit
32 shall be made to a trust fund. The amount of the deposit shall be determined
33 by the ~~director~~ secretary, taking into consideration the factors stated in
34 subdivision (11)(D) of this section.

35
36 SECTION 4940. Arkansas Code § 20-21-306(b), concerning the State

1 Electronic Product Control Agency, is amended to read as follows:

2 (b) The ~~Director~~ Secretary of the Department of Health shall be
3 Director of the State Electronic Product Control Agency and shall perform the
4 functions vested in the agency pursuant to this subchapter.

5

6 SECTION 4941. Arkansas Code § 20-21-403(a)(2), concerning the
7 operating funds of the Nuclear Planning and Response Program, is amended to
8 read as follows:

9 (2) The ~~Director~~ Secretary of the Department of Health shall
10 certify the amount to each utility in the state which maintains and operates
11 one (1) or more nuclear generating facilities in the state. The Chief Fiscal
12 Officer of the State shall then notify each utility of the portion of the
13 amount to be paid by each utility.

14

15 SECTION 4942. Arkansas Code § 20-21-404(b) and (c), concerning the
16 fees from utilities operating nuclear generating facilities, are amended to
17 read as follows:

18 (b) The fees so levied against each utility shall be remitted by the
19 utility to the ~~Director~~ Secretary of the Department of Health within thirty
20 (30) days after the amount thereof is certified by the Chief Fiscal Officer
21 of the State.

22 (c) If any utility shall fail or refuse to pay the fees as provided in
23 this section within the time prescribed, the ~~director~~ secretary shall add to
24 the fee a penalty of twenty-five percent (25%) thereof and shall certify the
25 amount of the delinquent fee and penalty to the Attorney General for
26 collection.

27

28 SECTION 4943. Arkansas Code § 20-21-501(3), concerning the definition
29 of "Division of Health" under the Nuclear Planning and Response Program of
30 the Division of Radiation Control and Emergency Management of the Department
31 of Health, is amended to read as follows:

32 (3) "Division of Health" means the Nuclear Planning and Response
33 Program of the Division of Radiation Control and Emergency Management of the
34 Department of Health, with the ~~Director~~ Secretary of the Department of Health
35 having the ultimate authority over any activities conducted by that program,
36 division, and department;

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SECTION 4944. Arkansas Code § 20-27-209 is repealed.

~~20-27-209. Sterilization of renovated and remade bedding required.~~

~~(a) No person shall remake or renovate any article of bedding unless all the material to be used in the remade or renovated bedding shall first be thoroughly sterilized and disinfected by a process approved by the Director of the Department of Health.~~

~~(b) Any person who receives bedding to be renovated shall attach to each article of bedding, at the time of its receipt, a tag upon which has been legibly written the name and address of the owner of the bedding and the date it was received for renovation.~~

~~(c) No person shall use in the making of bedding any previously used material unless the material has been sterilized and disinfected by a process approved by the director.~~

SECTION 4945. Arkansas Code § 20-27-602(3), concerning the definition of "Director" under the laws regulating lead poisoning prevention, is repealed.

~~(3) "Director" means the Director of the Department of Health or his or her authorized delegate or representative;~~

SECTION 4946. Arkansas Code § 20-27-605(b), concerning the Director of the Lead Poisoning Prevention and Control Agency, is amended to read as follows:

(b) The ~~Director~~ Secretary of the Department of Health shall perform the functions vested in the department pursuant to this subchapter.

SECTION 4947. Arkansas Code § 20-27-606(a), concerning the requirement for a search warrant required for inspection, is amended to read as follows:

(a) For reasonable cause, the ~~Director~~ Secretary of the Department of Health may obtain from any court of record in the county where a dwelling or other property is located a search warrant permitting the ~~director's~~ secretary's designee to enter at all reasonable times upon any private or public property, including dwellings or dwelling units. Entry may be made for the purpose of determining whether or not a lead poisoning hazard or potential hazard exists, including the collection of samples of laboratory

1 analyses, and to determine abatement compliance. However, entry onto or into
2 any property under the jurisdiction and control of the United States
3 Government shall be effected only with the concurrence of the United States
4 Government or its designated representative.

5
6 SECTION 4948. Arkansas Code § 20-27-607(a), concerning the
7 notification of a lead hazard, is amended to read as follows:

8 (a) After completion of an inspection or investigation, the ~~Director~~
9 Secretary of the Department of Health or his or her designee shall notify the
10 owner and tenant of his or her findings and, in the event any lead hazard was
11 found, the notification shall contain instructions pertaining to abatement as
12 prescribed by this subchapter and rules and regulations promulgated pursuant
13 to this subchapter.

14
15 SECTION 4949. Arkansas Code § 20-27-1501(3)(D), concerning the
16 definition of "artist trainer", is amended to read as follows:

17 (D) Is a registered instructor for the specified field of
18 body art with the ~~Department of Higher Education~~ department;

19
20 SECTION 4950. Arkansas Code § 20-27-1503(a)(2), concerning licensing,
21 regulating, and inspecting body art establishments and artists by the
22 Department of Health, is amended to read as follows:

23 (2) A body art training facility shall be licensed by the
24 Department of Health as an establishment and ~~by the Department of Higher~~
25 ~~Education~~ as an approved body art training facility.

26
27 SECTION 4951. Arkansas Code § 20-27-1507(a) and (b), concerning the
28 education of an artist in training, is amended to read as follows:

29 (a) An artist trainer shall be a registered instructor in a school
30 licensed by the ~~Department of Higher Education under § 6-51-601 et seq.~~
31 Department of Health.

32 (b) ~~In consultation with the State Board of Private Career Education,~~
33 ~~the Department of Higher Education~~ The department shall develop standards to
34 determine:

35 (1) The maximum number of artists in training in a training
36 facility at one time; and

1 (2) The length of the program in hours and across a range of
2 months.

3
4 SECTION 4952. Arkansas Code § 20-27-1507(c)(2)(A), concerning the
5 education of an artist in training, is amended to read as follows:

6 (2)(A) The artist trainer shall maintain a training log of the
7 clock hours completed by the artist in training on forms approved by the
8 ~~Department of Higher Education~~ department.

9
10 SECTION 4953. Arkansas Code § 20-27-1507(c)(2)(D), concerning the
11 education of an artist in training, is amended to read as follows:

12 (D) The completed training log shall be submitted to the
13 ~~Department of Health~~ department at the time of the practical examination
14 under § 20-27-1508.

15
16 SECTION 4954. Arkansas Code § 20-27-1507(d) and (e), concerning the
17 education of an artist in training, is amended to read as follows:

18 (d) An artist trainer may offer training only in the area in which the
19 artist trainer holds a current license from the ~~Department of Health~~
20 department.

21 (e) The ~~Department of Higher Education~~ department shall adopt a
22 minimum curriculum for each area of body art training that shall be followed
23 by all artist trainers, artists in training, and body art training
24 facilities.

25
26 SECTION 4955. Arkansas Code § 20-27-2701(3), concerning the definition
27 of "director" under the laws regarding the unlawful sale of bedding, is
28 repealed.

29 ~~(3) "Director" means the Director of the Department of Health;~~

30
31 SECTION 4956. Arkansas Code § 20-27-2702(d), concerning the labeling
32 of bedding for sale, is amended to read as follows:

33 (d) The ~~Director~~ Secretary of the Department of Health shall approve
34 the form and size of labels, the fabric of which the labels are made, and the
35 wording and statements on labels provided for under this section.

36

1 SECTION 4957. Arkansas Code § 20-47-510(d)(1)(A), concerning the
2 coordination and oversight of annual reports of the Comprehensive Children's
3 Behavioral Health System of Care Plan, is amended to read as follows:

4 (A) The ~~Commissioner~~ Secretary of Education, the Secretary
5 of Health, and ~~the Director of the Department of Health~~, and the ~~Director~~
6 Secretary of the Department of Human Services; and

7
8 SECTION 4958. Arkansas Code § 20-47-510(e)(1)(A), concerning the
9 coordination and oversight of annual reports of the Comprehensive Children's
10 Behavioral Health System of Care Plan, is amended to read as follows:

11 (A) The commissioner, the ~~Director~~ Secretary of the
12 Department of Health, and the ~~Director~~ Secretary of the Department of Human
13 Services; and

14
15 SECTION 4959. Arkansas Code § 20-57-203 is amended to read as follows:
16 20-57-203. ~~Director~~ Secretary of the Department of Health – Powers and
17 duties.

18 The ~~Director~~ Secretary of the Department of Health shall have:

19 (1) Power and authority to prevent the proliferation of
20 infections, contagious, and communicable diseases resulting from unsanitary
21 food service operations; and

22 (2) Direction and control over all sanitary and quarantine
23 measures for dealing with all such diseases within the state and to suppress
24 the diseases and prevent their spread.

25
26 SECTION 4960. Arkansas Code § 20-57-207(a) and (b), concerning
27 nonliability for the prevention of choking, are amended to read as follows:

28 (a) The ~~Director~~ Secretary of the Department of Health shall study and
29 approve instructions detailing first aid techniques and a poster diagramming
30 first aid techniques designed and intended for use by a person without
31 medical training in removing food which has become lodged in the throat of a
32 choking victim.

33 (b) The ~~director~~ secretary shall publish the approved instructions and
34 poster and make them available to each food service operation in the state.

35
36 SECTION 4961. Arkansas Code § 20-57-207(g), concerning nonliability

1 for the prevention of choking, is amended to read as follows:

2 (g) No food service operation, employee of a food service operation,
3 person connected with its management, nor any other person shall be liable in
4 any civil action for damages for personal injury or wrongful death for any
5 acts or omissions of any individual removing, attempting to remove, or
6 assisting in the removal of food lodged in the throat of a choking victim in
7 accordance with instructions supplied by the ~~director~~ secretary.

8

9 SECTION 4962. Arkansas Code § 20-57-304 is amended to read as follows:
10 20-57-304. Penalty.

11 Any person who violates any of the provisions of this subchapter, or
12 the orders, rules, or regulations promulgated by the ~~Director~~ Secretary of
13 the Department of Health under authority thereof, shall upon conviction be
14 subject to a fine for each and every offense in a sum not exceeding five
15 hundred dollars (\$500) or to imprisonment for not more than six (6) months,
16 or both fine and imprisonment.

17

18 SECTION 4963. Arkansas Code § 20-57-305(b), concerning the powers and
19 duties of the State Board of Health and the Director of the Department of
20 Health, is amended to read as follows:

21 (b) All orders, rules, and regulations adopted by the board pursuant
22 to this subchapter shall be published in the manner prescribed in subsection
23 (c) of this section and, within the limits specified by this subchapter,
24 shall become effective upon such date as the ~~Director~~ Secretary of the
25 Department of Health shall fix.

26

27 SECTION 4964. Arkansas Code § 20-57-305(d)(1), concerning the powers
28 and duties of the State Board of Health and the Director of the Department of
29 Health, is amended to read as follows:

30 (d)(1) The ~~director~~ secretary is authorized to collect samples for
31 analysis and to conduct examinations and investigations for the purposes of
32 this subchapter through any officers or employees under his or her
33 supervision.

34

35 SECTION 4965. Arkansas Code § 20-57-306(d), concerning vitamins and
36 other ingredients of flour, is amended to read as follows:

1 (d) The ~~Director~~ Secretary of the Department of Health is empowered
2 with the authority and directed to change, or add to, the specifications for
3 ingredients and the amounts thereof required to conform to the federal
4 definition of enriched flour when promulgated or as may from time to time be
5 amended.

6
7 SECTION 4966. Arkansas Code § 20-57-306(f)(1), concerning vitamins and
8 other ingredients of flour, is amended to read as follows:

9 (f)(1) The terms of this section shall not apply to flour sold to
10 distributors, bakers, or other processors if the purchaser furnishes to the
11 seller a certificate in such form as the ~~director~~ secretary shall by
12 regulation prescribe, certifying that the flour will be:

13 (A) Resold to a distributor, baker, or other processor;

14 (B) Used in the manufacture, mixing, or compounding of
15 flour, white bread, or rolls enriched to meet the requirements of this
16 subchapter; or

17 (C) Used in the manufacture of products other than flour,
18 white bread, or rolls.

19
20 SECTION 4967. Arkansas Code § 20-59-201(5), concerning the definition
21 of miscellaneous products under the laws regulating milk and dairy products,
22 is amended to read as follows:

23 (5) Miscellaneous Products. Varieties, types, and kinds of milk
24 and dairy products which are not defined in this section shall be
25 manufactured and marketed under the standards of composition promulgated by
26 the Bureau of Standards of the United States Food and Drug Administration, or
27 may be promulgated by the ~~Director~~ Secretary of the Department of Health
28 under authority vested in him or her to make and promulgate rules and
29 regulations;

30
31 SECTION 4968. Arkansas Code § 20-59-201(10)(F), concerning the
32 definition of "cream or milk grader" under the laws regulating milk and dairy
33 products, is amended to read as follows:

34 (F) "Cream or milk grader" shall be considered to mean any
35 person who shall have passed a satisfactory examination as to his or her
36 qualifications and to have actually demonstrated his or her ability before

1 the ~~director~~ secretary or his or her assistants, to determine the quality of
2 cream or milk purchased for the purpose of manufacture into dairy products;
3 and

4
5 SECTION 4969. Arkansas Code § 20-59-202(1) and (2), concerning
6 penalties under the laws governing milk and dairy products, is amended to
7 read as follows:

8 (1) Hinder, obstruct, or in any way interfere with the ~~Director~~
9 Secretary of the Department of Health or his or her deputies while
10 discharging the duties of inspection;

11 (2) Obstruct or hinder in any way the ~~director~~ secretary from
12 carrying out the full meaning and intent of this subchapter;

13
14 SECTION 4970. Arkansas Code § 20-59-205(a), concerning the right of
15 review of the State Board of Health regarding milk and dairy products, is
16 amended to read as follows:

17 (a) It shall be the duty of the State Board of Health, and it is
18 authorized and empowered through its constituted officers and agents as set
19 out in this section, to perform the following acts. However, any aggrieved
20 party shall have the right to apply to the circuit court in the county of his
21 or her residence for a review of any summary action on the part of the board
22 or its agents and for this purpose service of process upon the ~~Director~~
23 Secretary of the Department of Health at any place in this state shall
24 constitute valid service in the application for review:

25 (1) Inspection of Plants. To inspect or cause to be inspected,
26 as often as may be deemed practicable, all dairy products plants or any other
27 places where dairy products are produced, manufactured, frozen, processed,
28 kept, handled, stored, or sold within this state;

29 (2) Production and Sale Prohibited. To prohibit the production
30 and sale of unclean, adulterated, unwholesome milk, cream, or other dairy
31 products;

32 (3) Condemnation for Food. To condemn for food purposes by
33 denaturing with harmless coloring all unclean or unwholesome dairy products
34 wherever they may find those products;

35 (4) Samples. To take samples anywhere of any dairy products or
36 imitation thereof and cause the samples to be analyzed or satisfactorily

1 tested according to the method of the AOAC International in force at the
2 time. The analyses or tests shall be preserved and recorded;

3 (5) Right of Entry. To enter during business hours all dairy
4 products plants or other places where dairy products are manufactured,
5 produced, frozen, processed, stored, sold, or kept for sale or transportation
6 in order to perform their official duties;

7 (6) Price of Cream or Butterfat.

8 (A) To require that no person, firm, corporation, or
9 association shall buy or offer to buy cream or butterfat for butter-making
10 purposes without displaying the price to be paid for cream or butterfat
11 according to grade of cream.

12 (B) The price shall be posted and displayed continuously
13 during the business hours of the person, firm, or corporation buying cream,
14 and the price, according to grade of cream, shall include all premiums and
15 bonuses, if any, in letters and figures not less than two inches (2") in
16 height in such manner or place so that the price posted shall be plainly
17 visible from the street in front of the building or place in which the
18 purchase is made.

19 (C) It shall be deemed a violation hereof if there is:

20 (i) A failure on the part of the person, firm,
21 corporation, or association, its agent, servant, or employee, to post the
22 prices; or

23 (ii) A buying of cream or butterfat at a price
24 different from that which is posted.

25 (D) All persons, firms, corporations, or associations,
26 their agents, servants, or employees shall keep a record in their respective
27 cream stations of the time and date on or at which changes in prices are made
28 and posted.

29 (E) However, nothing in this subdivision (6) shall be
30 construed as to forbid or prevent:

31 (i) Incorporated cooperative associations from
32 paying annually earned patronage dividends according to the statutes and
33 decrees under which they are organized; or

34 (ii) Corporations paying annual dividends according
35 to the statutes and decrees under which they are incorporated;

36 (7) Subpoenas.

1 (A) To issue subpoenas requiring the appearance of
2 witnesses and the production of books, papers, reports, and records before
3 the board or the ~~Director~~ Secretary of the Department of Health, in all cases
4 where sufficient evidence of violation of this subchapter is filed with the
5 ~~Director of the Department of Health~~ Secretary of the Department of Health.
6 The ~~Director of the Department of Health~~ Secretary of the Department of
7 Health shall have power to administer oaths with like effect as is done in
8 courts of law in this state.

9 (B) It shall be the duty of any circuit court or the judge
10 thereof upon application to issue an attachment for the witnesses and compel
11 their attendance before the board or the ~~Director~~ Secretary of the Department
12 of Health, to give testimony upon such matters as shall be lawfully required
13 by the official. The court or judge shall have power, in cases of refusal, to
14 punish for contempt, as in other cases of refusal to obey the orders and
15 process of the court;

16 (8) Tests.

17 (A) To test milk, cream, and other dairy products for the
18 purpose of ascertaining the percentages of butterfat or other ingredients
19 contained therein.

20 (B) If the ~~Director~~ Secretary of the Department of Health
21 or any of his or her deputies shall find upon testing that there is a
22 variance of more than one percent (1%) of butterfat in a cream test or two-
23 tenths of one percent (2/10 of 1%) in a milk test between his or her test and
24 that made by any person engaged in buying or selling milk, cream, or other
25 dairy products for the basis of payment, the ~~Director~~ Secretary of the
26 Department of Health or deputy shall cause his or her test to be verified and
27 substantiated by a recognized laboratory. If the chemist shall find that the
28 test made by the ~~Director~~ Secretary of the Department of Health or deputy is
29 correct, the test thus made and verified shall be admitted in evidence in all
30 prosecutions for violation of this section. The ~~Director of the Department of~~
31 ~~Health~~ secretary is authorized to recall and cancel the testor's permit of
32 the person thus making false tests or to bring criminal action against the
33 person, or both;

34 (9) Carrier Regulations.

35 (A) To forbid and prevent any common carrier to neglect or
36 fail to remove or ship from its depot, within twenty-four (24) hours of its

1 arrival there for shipment, any milk, cream, or other dairy products left at
2 that depot for transportation.

3 (B) Railway and express companies and other common
4 carriers shall provide and utilize sanitary ventilated rooms or canvas covers
5 at depots or transfer points for the protection from extreme temperatures of
6 all milk, cream, and ice cream received for shipment and not allow
7 merchandise of a contaminating nature to be stored on or with the cream.

8 (C) Truck route operators shall protect milk and cream
9 from extreme temperatures and unsanitary conditions during transportation by
10 proper covering and separation to prevent contamination from other
11 transportation products;

12 (10) Cans or Packers at Depot. To forbid and prevent milk or
13 cream cans or ice cream packers to remain at a railroad or truck depot longer
14 than forty-eight (48) hours from the date of their arrival, excepting
15 individual farm shipments;

16 (11) Branded Containers.

17 (A) To forbid and prevent the use of any branded or
18 registered cream can or milk can, ice cream, or frozen dessert packer or
19 container for any other purpose than the handling, storing, or shipping of
20 milk, cream, or frozen dessert.

21 (B) It shall be unlawful for any person or carrier other
22 than the rightful owner, except with written consent of the owner thereof, to
23 use, transport, or deliver any milk or cream can, whether filled with cream
24 or milk or empty, or frozen dessert container, whether filled with frozen
25 dessert or empty, to other than the rightful owner if the receptacle is
26 marked with the brand or trademark of the owner, the brand or trademark being
27 registered according to law with the Secretary of State;

28 (12) Alteration of Brand – Return of Containers.

29 (A) To forbid and prevent any person other than the
30 rightful owner thereof to in any way alter the mark or brand or ownership
31 identification on any milk or cream can or other dairy receptacle without
32 written consent of the owner.

33 (B) Every person, firm, or corporation purchasing frozen
34 desserts in cans and shipping bags which are to be returned to the
35 manufacturer shall cause the cans to be washed and cleaned as soon as
36 emptied, and the bags stored in a dry place, or returned at once;

1 (13) Samples of Frozen Desserts. To take samples of frozen
2 desserts, ice cream, or other frozen dairy products for official testing at
3 the factory where desserts are frozen or from an unopened container of frozen
4 desserts or other frozen dairy products, according to a method approved by
5 the AOAC International or the American Dairy Science Association; and

6 (14) Containers Used for Other Purposes. To forbid and prevent
7 the sale or storage of milk, cream, or other dairy products in milk or cream
8 cans which have previously contained kerosene, gasoline, turpentine, oil, or
9 products or byproducts of a similar nature;

10 (15) Dairy Product Definitions and Standards of Identity and
11 Labeling Requirements.

12 (A) To adopt the definitions and standards of identity for
13 milk, milk products, cheeses, and frozen desserts found at 21 C.F.R., Parts
14 131, 133, and 135, and to adopt any amendments or additions made thereunder.
15 The board may adopt definitions and standards of identity of milk products,
16 cheeses, and frozen desserts if they are not found at 21 C.F.R. All packages
17 enclosing milk, milk products, cheeses, and frozen desserts shall be labeled
18 in accordance with the Federal Food, Drug, and Cosmetic Act and the Fair
19 Packaging and Labeling Act, and regulations promulgated thereunder.

20 (B) Provided, that the board shall not change, correct,
21 adopt, or promulgate rules or regulations or other health code standards
22 pertaining to the dairy industry of Arkansas, as defined in this section,
23 until such changes have been reviewed by active Arkansas milk producers
24 marketing agents, herein referred to as the "agents", and by the Arkansas
25 Dairy Products Association, hereinafter referred to as the "association", in
26 regular or especially called meetings of the agents and the association, or
27 the governing bodies thereof. However, if meetings of the agents and the
28 association are not held within thirty (30) days after a written notice by
29 the board of intent to change, correct, adopt, or promulgate rules and
30 regulations, the review of the agents and the association shall be deemed
31 waived.

32 (C) Notice as required by this subsection shall be given
33 in writing by ordinary mail, or be hand delivered, to the agents and to the
34 Director of the Arkansas Dairy Products Association.

35 (D) The ~~Director~~ Secretary of the Department of Health or
36 the board may change, correct, adopt, or promulgate rules and regulations

1 pertaining to the dairy industry of Arkansas in times of emergency or natural
2 disaster without notice to the agents and the association.

3 (E) As used in this subchapter, the term "dairy industry
4 of Arkansas" means Grade "A" milk plants, milk manufacturing plants, ice
5 cream plants, milk producers, milk producer-distributors, milk haulers, milk
6 distributors, dairy farms, receiving stations, and transfer stations.

7
8 SECTION 4971. Arkansas Code § 20-59-206(b), concerning a dairy plant
9 license, is amended to read as follows:

10 (b) Every person buying or receiving milk, cream, or dairy products
11 for manufacturing, processing, or packaging shall be required to procure from
12 the ~~Director~~ Secretary of the Department of Health an annual dairy plant
13 license for each location where milk, cream, or dairy products are received
14 for the purpose of manufacturing, processing, or packaging.

15
16 SECTION 4972. Arkansas Code § 20-59-207(b), concerning the frozen
17 dessert manufacturer's license, is amended to read as follows:

18 (b) Any person making frozen dessert for sale shall be required to
19 procure from the ~~Director~~ Secretary of the Department of Health an annual
20 frozen dessert manufacturer's license for each location or plant where frozen
21 dessert is manufactured.

22
23 SECTION 4973. Arkansas Code § 20-59-210(b), concerning a sampler and
24 grader license, is amended to read as follows:

25 (b) Applications to become a licensed sampler and grader shall be made
26 to the ~~Director~~ Secretary of the Department of Health upon such forms as he
27 or she may prescribe.

28
29 SECTION 4974. Arkansas Code § 20-59-210(e), concerning a sampler and
30 grader license, is amended to read as follows:

31 (e) In order to qualify for a license, the applicant shall satisfy the
32 ~~director~~ secretary, either by a written examination or otherwise, that he or
33 she is honest and competent to do sampling work.

34
35 SECTION 4975. Arkansas Code § 20-59-211(b), concerning the milk tester
36 license and fee, is amended to read as follows:

1 (b) Application to become a licensed milk tester shall be made to the
2 ~~Director~~ Secretary of the Department of Health upon such forms as the
3 ~~director~~ secretary may prescribe.
4

5 SECTION 4976. Arkansas Code § 20-59-211(d), concerning the milk tester
6 license and fee, is amended to read as follows:

7 (d) If the applicant shall be found upon examination to be qualified
8 and competent, the ~~director~~ secretary shall issue to him or her a license.
9

10 SECTION 4977. Arkansas Code § 20-59-226 is amended to read as follows:

11 20-59-226. Unlawful acts – Removing label of health officer.

12 It shall be unlawful to remove or deface any tags or labels which have
13 been attached by the ~~Director~~ Secretary of the Department of Health or his or
14 her deputies to a receptacle containing cream, milk, or other dairy products.
15

16 SECTION 4978. Arkansas Code § 20-59-232 is amended to read as follows:

17 20-59-232. Unlawful acts – Records of cream buyers – Monthly reports.

18 It shall be unlawful for all cream buyers to purchase cream without
19 keeping a careful record of all cream bought as first grade and second grade,
20 and they shall render the report regularly to the creamery or factory
21 receiving the cream. Creameries shall report the above information monthly,
22 together with other cream purchase reports to the ~~Director~~ Secretary of the
23 Department of Health on forms furnished them.
24

25 SECTION 4979. Arkansas Code § 20-59-234 is amended to read as follows:

26 20-59-234. Unlawful acts – Operation without permit.

27 It shall be unlawful for any person, firm, or corporation to operate a
28 dairy products plant, including milk and cream stations, or freeze or
29 manufacture frozen desserts, or operate a condensery depot within the State
30 of Arkansas without having first secured a permit, except as provided for in
31 § 20-59-244, signed by the ~~Director~~ Secretary of the Department of Health and
32 bearing the seal of his or her office. The permit shall be displayed
33 conspicuously at the place of business.
34

35 SECTION 4980. Arkansas Code § 20-59-243 is amended to read as follows:

36 20-59-243. Unlawful acts – Graded milk.

1 It shall be unlawful to label, sell, or offer for sale any milk as
2 graded milk unless the grade is officially awarded by the ~~Director~~ Secretary
3 of the Department of Health having jurisdiction in accordance with the
4 provisions of the United States Public Health Service Standard Milk Ordinance
5 and Code.

6
7 SECTION 4981. Arkansas Code § 20-59-244 is amended to read as follows:
8 20-59-244. Unlawful acts – Pasteurized milk – Permit.

9 It shall be unlawful to label, sell, or offer for sale as pasteurized
10 any milk unless it has been pasteurized in accordance with the provisions of
11 the United States Public Health Service Standard Milk Ordinance and Code
12 under a permit issued by the ~~Director~~ Secretary of the Department of Health.
13 However, no permit shall be required where plants are operating under permit
14 from a municipality enforcing the United States Public Health Service
15 Standard Milk Ordinance and Code.

16
17 SECTION 4982. Arkansas Code § 20-59-246(a), concerning a manufacturing
18 milk permit, is amended to read as follows:

19 (a) Every dairy which produces milk or cream to be used for
20 manufacturing purposes shall be required to procure from the ~~Director~~
21 Secretary of the Department of Health a manufacturing milk permit.

22
23 SECTION 4983. Arkansas Code § 20-59-303(c), concerning enforcement by
24 the State Board of Health, is amended to read as follows:

25 (c) However, any aggrieved party shall have the right to apply to the
26 circuit court in the county of his or her residence for a review of any
27 summary action on the part of the board or its agents. For this purpose,
28 service of process upon the ~~Director~~ Secretary of the Department of Health at
29 any place in this state shall constitute a valid service in the application
30 for review.

31
32 SECTION 4984. Arkansas Code § 20-59-305(a), concerning the requirement
33 for a production permit for mellorine, is amended to read as follows:

34 (a) It shall be unlawful for any person, firm, or corporation to
35 operate a plant producing, manufacturing, processing, freezing, or packaging
36 mellorine or mellorine mix without having first secured a permit signed by

1 the ~~Director~~ Secretary of the Department of Health and bearing the seal of
2 his or her office. The permit shall be displayed conspicuously at the place
3 of business.

4
5 SECTION 4985. Arkansas Code § 20-59-305(d), concerning the requirement
6 for a production permit for mellorine, is amended to read as follows:

7 (d) The ~~director~~ secretary shall collect for the permits, and all
8 funds collected by the ~~director~~ secretary under the provisions of this
9 subchapter shall be deposited into the State Treasury.

10
11 SECTION 4986. Arkansas Code § 20-59-404(b), concerning inspection fees
12 under the Grade "A" Milk and Milk Products Inspection and Regulation Program,
13 is amended to read as follows:

14 (b) If any person fails, neglects, or refuses to pay the above fee and
15 is delinquent for a period of thirty (30) days, the ~~Director~~ Secretary of the
16 Department of Health is directed and empowered to prohibit the person from
17 distributing, hauling, selling, or otherwise handling Grade "A" milk or milk
18 products in the state and shall suspend his or her permit and withdraw all
19 inspection service from the establishment until fees are paid in full.

20
21 SECTION 4986. Arkansas Code § 20-59-506(b)(2), concerning the review
22 of proposed rules concerning the Grade "A" milk industry, is amended to read
23 as follows:

24 (2) The ~~Director~~ Secretary of the Department of Health and the
25 board may adopt rules and regulations pertaining to the Grade "A" milk
26 industry of this state in times of emergency or natural disaster without
27 notice to the committee.

28
29 SECTION 4988. Arkansas Code § 20-60-204(a) and (b), concerning
30 regulation of labeling, sanitary standards, practices, and procedures for
31 livestock producers, are amended to read as follows:

32 (a)(1) The ~~Director~~ Secretary of the Department of Health shall, by
33 regulation and under such conditions as to labeling, sanitary standards,
34 practices, and procedures as he or she may prescribe, exempt from specific
35 provisions of this subchapter:

36 (A) Livestock producers with respect to livestock

1 carcasses and parts thereof, and meat food products, processed by them from
2 livestock of their own raising on their own farms and used by them for
3 personal or private consumption, but in no instance where the product is to
4 be offered or used for public consumption;

5 (B) Any person engaged in slaughtering livestock or
6 processing livestock carcasses or parts thereof or meat food products for
7 intrastate commerce and the articles so processed by the person, whenever the
8 ~~director~~ secretary determines that it would be impracticable to provide
9 inspection and that the exemption will aid in the effective administration of
10 this subchapter;

11 (C) Persons slaughtering livestock or otherwise processing
12 or handling livestock carcasses or parts thereof, or meat food products,
13 which have been or are to be processed as required by recognized religious
14 dietary laws, to the extent that the ~~director~~ secretary determines is
15 necessary to avoid conflict with the requirements while still effectuating
16 the purposes of this subchapter; and

17 (D) Any establishment engaged in slaughtering livestock or
18 processing livestock carcasses or parts thereof, or meat food products for
19 intrastate commerce, and the articles so processed by the establishment when
20 the establishment is subject to inspection under a city ordinance which sets
21 standards in conformity with the minimum standards determined by the ~~director~~
22 secretary.

23 (2) The ~~director~~ secretary may, by order, suspend or terminate
24 any exemption under this section with respect to any person whenever he or
25 she finds that the action will aid in effectuating the purposes of this
26 subchapter.

27 (b) This subchapter shall not apply to any act or transaction subject
28 to regulation under the Federal Meat Inspection Act, where the standards
29 required under the federal act are in conformity with the minimum standards
30 determined by the ~~director~~ secretary.

31
32 SECTION 4989. Arkansas Code § 20-60-204(c)(3)(A), concerning
33 regulation of labeling, sanitary standards, practices, and procedures for
34 livestock producers, is amended to read as follows:

35 (A) The custom establishment must comply with the
36 regulations which the ~~director~~ secretary is authorized to promulgate to

1 assure that any carcasses, parts thereof, meat, or meat food products
2 prepared or any containers or packages containing uninspected, exempted
3 custom products are separated at all times from inspected carcasses, parts
4 thereof, or meat, or meat food products prepared for sale;

5
6 SECTION 4990. Arkansas Code § 20-60-205(d), concerning the penalties
7 for violating the Arkansas Meat and Meat Products Inspection Act, is amended
8 to read as follows:

9 (d) Nothing in this subchapter shall be construed as requiring the
10 ~~Director~~ Secretary of the Department of Health to report violations of this
11 subchapter for criminal prosecution whenever the ~~director~~ secretary believes
12 that the public interest will be adequately served and compliance with this
13 subchapter obtained by a suitable written notice of warning.

14
15 SECTION 4991. Arkansas Code § 20-60-206 is amended to read as follows:
16 20-60-206. ~~Director~~ Secretary of the Department of Health – Powers and
17 duties.

18 (a)(1) The ~~Director~~ Secretary of the Department of Health shall
19 promulgate such rules and regulations and appoint such veterinarians and
20 other qualified personnel as are necessary to carry out the purposes or
21 provisions of this subchapter. The rules and regulations shall be in
22 conformity with the rules and regulations under the Federal Meat Inspection
23 Act as now in effect and with subsequent amendments thereof unless they are
24 considered by the ~~director~~ secretary as not to be in accord with the
25 objectives of this subchapter.

26 (2) Notice of proposed rules and regulations shall be given all
27 establishments licensed under this subchapter. A hearing shall be called by
28 the ~~director~~ secretary at which proponents and opponents of the proposed
29 rules and regulations shall be given the opportunity to present arguments
30 supporting their positions. The time, place, and procedure for the hearing
31 shall be determined by the ~~director~~ secretary. No proposed rules and
32 regulations shall become effective until after the hearing.

33 (b) The ~~director~~ secretary may cooperate with the United States
34 Government in carrying out the provisions of this subchapter and the Federal
35 Meat Inspection Act.

36

1 SECTION 4992. Arkansas Code § 20-60-208(a), concerning an application
2 for a license or exemption for meat food processing, is amended to read as
3 follows:

4 (a) Applications for inspection or exemption shall be made on forms
5 furnished by the ~~Director~~ Secretary of the Department of Health.

6
7 SECTION 4993. Arkansas Code § 20-60-208(d), concerning an application
8 for a license or exemption for meat food processing, is amended to read as
9 follows:

10 (d) Before any license is issued, an inspection shall be made by the
11 ~~director~~ secretary to determine the acceptability of the establishment to do
12 business as desired by the applicant in his or her application for license or
13 exemption.

14
15 SECTION 4994. Arkansas Code § 20-60-209 is amended to read as follows:
16 20-60-209. Inspection and sanitary practices required.

17 (a) Each official establishment at which livestock are slaughtered or
18 livestock carcasses or parts thereof or meat food products are processed for
19 intrastate commerce shall have the premises, facilities, and equipment
20 inspected and shall be operated in accordance with such sanitary practices as
21 are required by rules or regulations prescribed by the ~~Director~~ Secretary of
22 the Department of Health for the purpose of preventing the entry into and
23 movement in commerce of carcasses, parts thereof, and meat food products
24 which are unwholesome or adulterated.

25 (b) No livestock carcasses or parts thereof, or meat food product,
26 shall be admitted into any official establishment unless they have been
27 prepared only under inspection pursuant to this subchapter or the Federal
28 Meat Inspection Act or their admission is permitted by rules or regulations
29 prescribed by the ~~director~~ secretary under this subchapter.

30 (c) The ~~director~~ secretary shall refuse to render inspection to any
31 establishment whose premises, facilities, or equipment, or the operation
32 thereof, fail to meet the requirements of this section.

33
34 SECTION 4995. Arkansas Code § 20-60-210(a)-(c), concerning inspection
35 procedures for the commerce of livestock carcasses, are amended to read as
36 follows:

1 (a) For the purpose of preventing the entry into or movement in
2 intrastate commerce of any livestock carcass, part thereof, or meat food
3 product which is unwholesome or adulterated and is intended for or capable of
4 use as human food, the ~~Director~~ Secretary of the Department of Health shall,
5 where and to the extent considered by him or her necessary, cause to be made
6 by inspectors antemortem inspection of livestock in any official
7 establishment where livestock are slaughtered for such commerce.

8 (b) For the purpose stated in subsection (a) of this section, the
9 ~~director~~ secretary, whenever slaughtering or other processing operations are
10 being conducted, shall cause to be made by inspectors postmortem inspection
11 of the carcasses and parts thereof of each animal slaughtered in any official
12 establishment. He or she shall cause to be made by inspectors an inspection
13 of all meat food products processed in any official establishment in which
14 meat food products are processed for intrastate commerce.

15 (c) The ~~director~~ secretary shall also cause, at any time, such
16 quarantine, segregation, and reinspection of livestock, livestock carcasses,
17 and parts thereof, and meat food products in official establishments as he or
18 she deems necessary to effectuate the purposes of this subchapter.

19
20 SECTION 4996. Arkansas Code § 20-60-211 is amended to read as follows:
21 20-60-211. Withdrawal and denial of inspection.

22 (a) The ~~Director~~ Secretary of the Department of Health may withdraw or
23 otherwise deny inspection under this subchapter with respect to any
24 establishment for such period as he or she deems necessary to effectuate the
25 purposes of this subchapter for any violation of the subchapter or any
26 requirements thereunder by the operation of the establishment.

27 (b)(1) However, before a withdrawal or denial of inspection is
28 ordered, the ~~director~~ secretary shall give the affected establishment an
29 opportunity for a hearing at which the establishment may present evidence
30 that it has not violated the subchapter or any requirements thereunder.

31 (2) The hearing shall be held after notice to the establishment
32 in such manner as the ~~director~~ secretary shall determine by his or her rules
33 and regulations.

34
35 SECTION 4997. Arkansas Code § 20-60-212(a), concerning the cost of
36 inspection for overtime or holiday work, is amended to read as follows:

1 (a) The cost of inspection rendered under this subchapter shall be
2 borne by this state. The cost of overtime and holiday work performed in
3 establishments subject to the provisions of this subchapter at such rates as
4 the ~~Director~~ Secretary of the Department of Health may determine shall be
5 borne and paid by the establishments. An inspector performing overtime and
6 holiday work shall be treated as though he or she were on compensatory leave
7 at such compensation as shall equal the rates set by the ~~director~~ secretary.

8
9 SECTION 4998. Arkansas Code § 20-60-213(a)(4), concerning the labeling
10 and marking of meat or meat food products, is amended to read as follows:

11 (4) The ~~Director~~ Secretary of the Department of Health may by
12 rules or regulations require additional marks or label information to appear
13 on livestock carcasses or parts thereof or meat food products when they leave
14 the official establishments or at the time of their transportation or sale in
15 this state. He or she may permit reasonable variations and grant exemptions
16 from the marking and labeling requirements of this section in any number not
17 in conflict with the purposes of this subchapter.

18
19 SECTION 4999. Arkansas Code § 20-60-213(c), concerning the labeling
20 and marking of meat or meat food products, is amended to read as follows:

21 (c)(1) No livestock carcasses or parts thereof or meat food products
22 inspected or required to be inspected pursuant to the provisions of this
23 subchapter shall be sold or offered for sale by any person, firm, or
24 corporation under any false or deceptive name, but established trade names
25 which are usual to the articles and which are not false or deceptive and
26 which are approved by the ~~director~~ secretary are permitted.

27 (2) If the ~~director~~ secretary has reason to believe that any
28 advertising or any label in use or prepared for use is false or misleading in
29 any particular, he or she may direct that the use of the advertising or label
30 be withheld unless it is modified in such manner as he or she may prescribe
31 so that it will not be false or misleading.

32 (3) If the person using or proposing to use any advertising or
33 the label does not accept the determination of the ~~director~~ secretary, he or
34 she may request a hearing, but the use of the advertising or the label shall,
35 if the ~~director~~ secretary so directs, be withheld pending hearing and final
36 determination by the ~~director~~ secretary.

1 (4) Any determination by the ~~director~~ secretary shall be
2 conclusive unless within thirty (30) days after the receipt of notice of the
3 final determination, the person adversely affected thereby appeals to the
4 Pulaski County Circuit Court.

5
6 SECTION 5000. Arkansas Code § 20-60-214(3), concerning prohibited acts
7 under the Arkansas Meat and Meat Products Inspection Act, is amended to read
8 as follows:

9 (3) Falsely making or issuing, altering, forging, simulating,
10 counterfeiting, or using without proper authority any official inspection
11 certificate, memorandum, mark, or other identification, or device for making
12 a mark or identification, used in connection with inspection under this
13 subchapter; or causing, procuring, aiding, assisting in, or being a party to
14 false making, issuing, altering, forging, simulating, counterfeiting, or
15 unauthorized use; or knowingly possessing, without promptly notifying the
16 ~~Director~~ Secretary of the Department of Health or his or her representative,
17 uttering, publishing, or using as true, or causing to be uttered, published,
18 or used as true, any falsely made or issued, altered, forged, simulated, or
19 counterfeited official inspection certificate, memorandum, mark, or other
20 identification, or device for making a mark or identification; or
21 representing that any article has been officially inspected under the
22 authority of this subchapter when the article has in fact not been so
23 inspected; or knowingly making any false representation in any certificate
24 prescribed by the ~~director~~ secretary in rules or regulations under this
25 subchapter or any form resembling the certificate;

26
27 SECTION 5001. Arkansas Code § 20-60-214(7), concerning prohibited acts
28 under the Arkansas Meat and Meat Products Inspection Act, is amended to read
29 as follows:

30 (7) The refusal to permit access by any authorized
31 representative of the ~~director~~ secretary at all reasonable times to the
32 premises of an establishment in this state at which livestock are slaughtered
33 or the carcasses or parts thereof or meat food products are processed for
34 intrastate commerce upon presentation of appropriate credentials;

35
36 SECTION 5002. Arkansas Code § 20-60-214(10), concerning prohibited

1 acts under the Arkansas Meat and Meat Products Inspection Act, is amended to
2 read as follows:

3 (10) Delivering, receiving, transporting, selling, or offering
4 for sale or transportation in intrastate commerce for human consumption any
5 livestock carcass or part thereof or meat food product which has been
6 processed in violation of any requirements under this subchapter except as
7 may be authorized by and pursuant to rules and regulations prescribed by the
8 ~~director~~ secretary;

9

10 SECTION 5003. Arkansas Code § 20-60-215(a), concerning records under
11 the Arkansas Meat and Meat Products Inspection Act, is amended to read as
12 follows:

13 (a) For the purpose of enforcing the provisions of this subchapter,
14 persons engaged in this state in the business of processing for intrastate
15 commerce or transporting, shipping, or receiving in commerce livestock
16 slaughtered for human consumption or meat or meat food products, or holding
17 articles so received, shall maintain the records as the ~~Director~~ Secretary of
18 the Department of Health by regulation may require, showing, to the extent
19 that they are concerned therewith, the receipt, delivery, sale, movement, or
20 disposition of the articles and shall, upon the request of an authorized
21 representative of the ~~director~~ secretary, permit him or her at reasonable
22 times to have access to and to copy all the records.

23

24 SECTION 5004. Arkansas Code § 20-60-303 is amended to read as follows:

25 20-60-303. Regulatory authority of the ~~Director~~ Secretary of the
26 Department of Health.

27 The ~~Director~~ Secretary of the Department of Health shall promulgate
28 such rules and regulations as are necessary to carry out the purposes and
29 provisions of this subchapter.

30

31 SECTION 5005. Arkansas Code § 20-60-306 is amended to read as follows:

32 20-60-306. Acceptance service – Cost.

33 The cost of providing the acceptance service and ensuing certification
34 shall be borne and paid by the seller, slaughterer or processor, or vendor or
35 merchant requesting the service at such rate as the ~~Director~~ Secretary of the
36 Department of Health may determine as being necessary to defer the cost of

1 this service.

2

3 SECTION 5006. Arkansas Code § 20-64-203 is amended to read as follows:
4 20-64-203. Manufacturers and wholesalers.

5 No person shall manufacture, compound, mix, cultivate, grow, or by any
6 other process produce or prepare narcotic drugs, and no person as a
7 wholesaler shall supply the same, without having first obtained a license so
8 to do from the ~~Director~~ Secretary of the Department of Health.

9

10 SECTION 5007. Arkansas Code § 20-64-204 is amended to read as follows:
11 20-64-204. Qualification for licenses.

12 No license shall be issued under § 20-64-203 unless and until the
13 applicant therefor has furnished proof satisfactory to the ~~Director~~ Secretary
14 of the Department of Health:

15 (a) That the applicant is of good moral character or, if the
16 applicant be an association or corporation, that the managing officers are of
17 good moral character;

18 (b) That the applicant is equipped as to land, buildings, and
19 paraphernalia properly to carry on the business described in his application.
20 No license shall be granted to any person who has within five (5) years been
21 convicted of a willful violation of any law of the United States, or of any
22 state, relating to opium, coca leaves, or other narcotic drugs, or to any
23 person who is a narcotic drug addict. The ~~director~~ secretary may suspend or
24 revoke any license for cause.

25

26 SECTION 5008. Arkansas Code § 20-64-205(3), concerning a sale on
27 written orders to dispense narcotic drugs under the Uniform Narcotic Drug
28 Act, is amended to read as follows:

29 (3) Use of Official Written Orders. An official written order
30 for any narcotic drug shall be signed in quadruplicate by the person giving
31 said order or his duly authorized agent. The original shall be presented to
32 the person who sells or dispenses the narcotic drug or drugs named therein,
33 and one (1) copy shall be sent to the ~~Director~~ Secretary of the Department of
34 Health not later than the 10th of the month following the month during which
35 the order was made. In event of the acceptance of such order by said person,
36 each party to the transaction shall preserve his copy of such order for a

1 period of two (2) years in such a way as to be readily accessible for
2 inspection by any public officer or employee engaged in the enforcement of
3 this subchapter. It shall be deemed a compliance with this subsection if the
4 parties to the transaction have complied with the federal narcotic laws,
5 respecting the requirements governing the use of order forms, and the
6 purchaser has sent a signed copy of the order to the ~~director~~ secretary as
7 aforesaid.

8
9 SECTION 5009. Arkansas Code § 20-64-206(1), concerning sales by
10 apothecaries under the Uniform Narcotic Drug Act, is amended to read as
11 follows:

12 (1) An apothecary, in good faith, may sell and dispense narcotic drugs
13 to any person upon a written prescription or an oral prescription in
14 pursuance to regulations, promulgated by the ~~Director~~ Secretary of the
15 Department of Health under authority of § 20-64-219, of a physician, dentist,
16 or veterinarian, dated and signed by the person prescribing on the day when
17 issued and bearing the full name and address of the patient for whom, or the
18 owner of the animal for which, the drug is dispensed, and the full name,
19 address, and registry number under the federal narcotic laws of the person
20 prescribing. If the prescription is for an animal, it shall state the species
21 of animal for which the drug is prescribed. The person filling the
22 prescription shall write the date of filling and his own signature on the
23 face of the prescription. The prescription shall be retained on file by the
24 proprietor of the pharmacy in which it is filled for a period of two (2)
25 years, so as to be readily accessible for inspection by any public officer or
26 employee engaged in the enforcement of this subchapter. The prescription must
27 not be refilled.

28
29 SECTION 5010. Arkansas Code § 20-64-208(a)(1), concerning preparations
30 exempted under the Uniform Narcotic Drug Act, is amended to read as follows:

31 (1) Administering, dispensing, or selling at retail any drug
32 subject to this subchapter under any circumstances that the ~~Director~~
33 Secretary of the Department of Health determines, after reasonable notice and
34 opportunity for hearing, not to be dangerous to the public health, or
35 promotive of addiction-forming or addiction-sustaining results upon the user,
36 or harmful to the public health, safety, or morals, and by order so

1 proclaims. In arriving at his determination, the ~~Director~~ Secretary of the
2 Department of Health shall consult with the Drug Enforcement Administration
3 of the Treasury Department of the United States and give due weight to its
4 investigations and determinations;

5
6 SECTION 5011. Arkansas Code § 20-64-209(5), concerning records to be
7 kept under the Uniform Narcotic Drug Act, is amended to read as follows:

8 (5) Form and Preservation of Records. The form of records shall
9 be prescribed by the ~~Director~~ Secretary of the Department of Health. The
10 record of narcotic drugs received shall in every case show the date of
11 receipt, the name and address of the person from whom received, and the kind
12 and quantity of drugs received; the kind and quantity of narcotic drugs
13 produced or removed from process of manufacturer, and the date of such
14 production or removal from process of manufacturer; and the record shall in
15 every case show the proportion of morphine, cocaine, or ecgonine contained in
16 or producible from crude opium or coca leaves received or produced. The
17 record of all narcotic drugs sold, administered, dispensed, or otherwise
18 disposed of shall show the date of selling, administering, or dispensing, the
19 name and address of the person to whom, or for whose use, or the owner and
20 species of animal for which the drugs were sold, administered, or dispensed,
21 and the kind and quantity of drugs. Every such record shall be kept for a
22 period of two (2) years from the date of the transaction recorded. The
23 keeping of a record required by or under the federal narcotic laws,
24 containing substantially the same information as is specified above, shall
25 constitute compliance with this section, except that every such record shall
26 contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any,
27 the kind and quantity of such drugs, and the date of the discovery of such
28 loss, destruction, or theft.

29
30 SECTION 5012. Arkansas Code § 20-64-214 is amended to read as follows:

31 20-64-214. Narcotic drugs to be delivered to state official, etc.

32 Upon delivery to the ~~Director~~ Secretary of the Department of Health of
33 any narcotic drugs discarded by the owner thereof or other person entitled to
34 the possession or custody thereof, and upon the ~~Director~~ Secretary of the
35 Department of Health delivering to such person an itemized receipt therefor,
36 the ~~Director~~ Secretary of the Department of Health is empowered to destroy

1 such narcotic drugs; provided, that the ~~Director~~ Secretary of the Department
2 of Health shall keep for a period of three (3) years from the date of
3 destruction a record of such transaction, showing the name and address of the
4 person delivering the narcotic drugs, an itemized description thereof, the
5 date and place of delivery, and the date of destruction.

6 All narcotic drugs, the lawful possession of which is not established or the
7 title to which cannot be ascertained, which have come into the custody of a
8 peace officer, shall be forfeited, and disposed of as follows:

9 (a) Except as in this section otherwise provided, the court or
10 magistrate having jurisdiction shall order such narcotic drugs forfeited and
11 destroyed. A record of the place where said drugs were seized, of the kinds
12 and quantities of drugs so destroyed, and of the time, place, and manner of
13 destruction shall be kept, and a return under oath, reporting said
14 destruction, shall be made to the court or magistrate and to the Director of
15 the Drug Enforcement Administration by the officer who destroys them;

16 (b) Upon written application by the ~~Director~~ Secretary of the
17 Department of Health, the court or magistrate by whom the forfeiture of
18 narcotic drugs has been decreed may order the delivery of any of them except
19 heroin and its salts and derivatives, to said ~~Director~~ Secretary of the
20 Department of Health, for distribution or destruction, as hereinafter
21 provided;

22 (c) Upon application by any hospital within this state not operated
23 for private gain, the ~~Director~~ Secretary of the Department of Health may in
24 his discretion deliver any narcotic drugs that have come into his custody by
25 authority of this section to the applicant for medicinal use. The ~~Director~~
26 Secretary of the Department of Health may from time to time deliver excess
27 stocks of such narcotic drugs to the Director of the Drug Enforcement
28 Administration or may destroy the same;

29 (d) The ~~Director~~ Secretary of the Department of Health shall keep a
30 full and complete record of all drugs received and of all drugs disposed of,
31 showing the exact kinds, quantities, and forms of such drugs; the persons
32 from whom received and to whom delivered; by whose authority received,
33 delivered, and destroyed; and the dates of the receipt, disposal, or
34 destruction, which record shall be open to inspection by all federal and
35 state officers charged with the enforcement of federal and state narcotic
36 laws.

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SECTION 5013. Arkansas Code § 20-64-219 is amended to read as follows:
20-64-219. Enforcement and cooperation.

It is hereby made the duty of the ~~Director~~ Secretary of the Department of Health, his officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all prosecuting attorneys, to enforce all provisions of this subchapter, except those specifically designated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs.

The authority to promulgate regulations for the efficient enforcement of this act is hereby vested in the ~~director~~ secretary. The ~~director~~ secretary is hereby authorized to make the regulations promulgated under this subchapter conform insofar as possible under the standards established herein and under the policies of this subchapter with those regulations promulgated under the federal Narcotic Act.

SECTION 5014. Arkansas Code § 20-64-303 is amended to read as follows:
20-64-303. Minor violations of subchapter.

Nothing in this subchapter shall be construed as requiring the State Board of Health to report for the institution of proceedings under this subchapter minor violations of this subchapter whenever the ~~Director~~ Secretary of the Department of Health believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

SECTION 5015. Arkansas Code § 20-64-308 is amended to read as follows:
20-64-308. Seizure and forfeiture of contraband – Hearing and disposition.

(a)(1) When an article, drug, or other thing is seized and forfeited under the provisions of § 20-64-307, the ~~Director~~ Secretary of the Department of Health or his or her authorized agent shall, within five (5) days thereafter, publish in a newspaper having a statewide circulation a notice containing a list of the articles, equipment, drugs, or other things seized, the name or names of the person or persons, if known, from whom taken, and the place where seized.

1 (2) The notice shall advise that the article, drug, or other
2 thing seized and forfeited will be destroyed or sold by the ~~director~~
3 secretary at the expiration of thirty (30) days from the date of publication
4 of the notice.

5 (3) Any person claiming any interest in the article, equipment,
6 drug, or other thing may, at any time within the thirty (30) days after the
7 publication of the notice, petition the ~~director~~ secretary for a hearing to
8 be held in the ~~director's~~ secretary's office in Little Rock.

9 (4) The ~~director~~ secretary shall set a date for the hearing not
10 later than ten (10) days after receiving the written request at which time
11 witnesses shall be sworn and evidence shall be taken.

12 (5) Within fifteen (15) days after such hearing, the ~~director~~
13 secretary shall enter his or her written findings of fact and order upon the
14 testimony so presented.

15 (6) The findings of fact and order of the ~~director~~ secretary may
16 be appealed to the Pulaski County Circuit Court by lodging with the court
17 within fifteen (15) days after the ~~director's~~ secretary's order has been
18 entered a transcript of record of the hearing held before the ~~director~~
19 secretary. The circuit court shall hear no new evidence on such appeal and
20 shall render its judgment only on errors of law.

21 (7) An appeal from the judgment of the circuit court may be
22 taken to the Supreme Court.

23 (b)(1) If the ~~director~~ secretary receives no written petition for a
24 hearing within thirty (30) days from the date of the publication of notice as
25 provided in this section, the ~~director~~ secretary shall, in his or her
26 discretion, proceed to take bids on the article, equipment, drug, or other
27 things seized and forfeited under § 20-64-307 and shall sell them to the
28 highest bidder, or he or she may destroy the articles, equipment, drugs, or
29 other things and shall preserve a written record thereof for two (2) years.

30 (2) The proceeds for the sale of the articles, drugs, or other
31 things shall be deposited with the Treasurer of State as nonrevenue receipts
32 for credit to the State Apportionment Fund as general revenues to be
33 distributed for the respective purposes as provided by law.

34
35 SECTION 5016. Arkansas Code § 20-64-316 is amended to read as follows:
36 20-64-316. Authority of Department of Health employees to investigate,

1 examine, and inspect.

2 Any officer or employee of the Department of Health designated by the
3 ~~Director~~ Secretary of the Department of Health to conduct examinations,
4 investigations, or inspections under this subchapter relating to depressant
5 or stimulant drugs or to counterfeit drugs may, when so authorized by the
6 ~~director~~ secretary:

7 (1) Carry firearms;

8 (2) Execute and serve search warrants and arrest warrants;

9 (3) Execute seizure by process issued pursuant to §§ 20-64-307
10 and 20-64-308;

11 (4) Make arrests without warrant for offenses under this
12 subchapter with respect to drugs if the offense is committed in his or her
13 presence; and

14 (5) Make seizures of drugs or containers or equipment, punches,
15 dies, plates, stone, labeling, or other things, if they are, or he or she has
16 reasonable grounds to believe that they are, subject to seizure and
17 condemnation under §§ 20-64-307 and 20-64-308.

18

19 SECTION 5017. Arkansas Code § 20-64-503(4), concerning the definition
20 of "controlled substance" under the laws concerning controlled substances and
21 legend drugs, is amended to read as follows:

22 (4) "Controlled substance" means those substances, drugs, or
23 immediate precursors listed in Schedules I through VI of the Uniform
24 Controlled Substances Act, § 5-64-101 et seq., and revised by the ~~Director~~
25 Secretary of the Department of Health pursuant to his or her authority under
26 §§ 5-64-214 – 5-64-216;

27

28 SECTION 5018. Arkansas Code § 20-77-1607(b)(4), concerning the
29 Advisory Council to the Arkansas Youth Suicide Prevention Task Force, is
30 amended to read as follows:

31 (4) The ~~Commissioner of Education~~ Secretary of the Department of
32 Education shall appoint one (1) member;

33

34 SECTION 5019. Arkansas Code § 20-78-206(a)(1)(B), concerning the rules
35 of the Division of Child Care and Early Childhood Education, is amended to
36 read as follows:

1 (B) In developing proposed rules, the division shall
2 consult with the ~~Director~~ Secretary of the Department of Health or his or her
3 designated representative in regard to rules relating to health.

4
5 SECTION 5020. Arkansas Code § 20-78-206(a)(3), concerning the rules of
6 the Division of Child Care and Early Childhood Education, is amended to read
7 as follows:

8 (3) The ~~director~~ Secretary of the Department of Health and the
9 ~~commissioner~~ Secretary of the Department of Education and their designated
10 representatives are directed to cooperate with and assist the division in
11 developing rules and regulations in the respective areas of health and
12 education.

13
14 SECTION 5021. Arkansas Code § 20-78-703(b)(1), concerning the Rita
15 Rowell Hale Prenatal and Early Childhood Nurse Home Visitation Program
16 Advisory Council, is amended to read as follows:

17 (1) Three (3) members from the Department of Health to be
18 appointed by the Governor after consulting the ~~Director~~ Secretary of the
19 Department of Health and subject to confirmation by the Senate;

20
21 SECTION 5022. Arkansas Code § 20-78-708 is amended to read as follows:
22 20-78-708. Funding.

23 The ~~Director~~ Secretary of the Department of Health is authorized to
24 utilize available general revenue savings and allowable federal funds in
25 support of the activities described in this subchapter in the event that
26 sufficient funds are not allocated for the Rita Rowell Hale Prenatal and
27 Early Childhood Nurse Home Visitation Program herein. The ~~director~~ secretary
28 is authorized to transfer appropriations and funds as necessary but only for
29 the purposes provided in this subchapter. Upon approval of the Chief Fiscal
30 Officer of the State and review by the Legislative Council, the transfers
31 shall be made upon the books of the Department of Finance and Administration,
32 the Auditor of State, and the Treasurer of State.

33
34 SECTION 5023. Arkansas Code § 23-79-1201(3)(B), concerning the
35 definition of "persons at high risk for colorectal cancer" under the laws
36 governing coverage for colorectal cancer screening, is amended to read as

1 follows:

2 (B) Any additional or expanded definition of "persons at
3 high risk for colorectal cancer" as recognized by medical science and
4 determined by the ~~Director~~ Secretary of the Department of Health in
5 consultation with the University of Arkansas for Medical Sciences.

6
7 SECTION 5024. Arkansas Code § 23-79-1202(d)(1)(B), concerning coverage
8 for colorectal cancer examinations, is amended to read as follows:

9 (B) Any additional medically recognized screening tests
10 for colorectal cancer required by the ~~Director~~ Secretary of the Department of
11 Health, determined in consultation with appropriate healthcare organizations.

12

13 SECTION 5025. Arkansas Code § 23-99-702(2), concerning the definition
14 of "director" under the laws establishing grievance systems and quality
15 assessment and improvement systems, is repealed.

16 ~~(2) "Director" means the Director of the Department of Health;~~

17

18 SECTION 5026. Arkansas Code § 23-99-703(b)(2), concerning a health
19 carrier and network grievance system, is amended to read as follows:

20 (2) Submit in the form and manner prescribed by the ~~Director~~
21 Secretary of the Department of Health a periodic report which shall include:

22 (A) A written description of the processes and procedures
23 for resolving grievances; and

24 (B) The total number of grievances handled through the
25 grievance system, including a compilation of the dates of the grievances, the
26 reason for the grievances, and resolutions of each grievance.

27

28 SECTION 5027. Arkansas Code § 23-99-703(c), concerning a health
29 carrier network grievance system, is amended to read as follows:

30 (c) In consultation with the Insurance Commissioner, the ~~director~~
31 secretary may promulgate rules and regulations in accordance with the
32 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the
33 provisions of this subchapter to enable the state to be properly informed of
34 quality issues within the state and to adequately respond to any quality
35 concerns expressed through grievances.

36

1 SECTION 5028. Arkansas Code § 23-99-704(a)(3), concerning health
2 carrier quality assessment and improvement systems, is amended to read as
3 follows:

4 (3) Submit to the ~~Director~~ Secretary of the Department of Health
5 in the time, manner, and form prescribed the following information:

6 (A) A written description of any quality assessment and
7 quality improvement systems; and

8 (B) Findings of relevant quality data as determined by the
9 ~~director~~ secretary.

10
11 SECTION 5029. Arkansas Code § 23-99-704(b), concerning health carrier
12 quality assessment and improvement systems, is amended to read as follows:

13 (b) In consultation with the Insurance Commissioner, the ~~director~~
14 secretary may promulgate rules and regulations in accordance with the
15 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the
16 provisions of this subchapter to enable the state to be properly informed of
17 quality issues within the state and to adequately respond to any quality
18 concerns found through the outcome data.

19
20 SECTION 5030. Arkansas Code § 23-99-705(b), concerning the
21 applicability and scope of rules regarding a health carrier, is amended to
22 read as follows:

23 (b) In terms of the ~~Director~~ Secretary of the Department of Health's
24 regulatory authority pursuant to §§ 23-99-703 and 23-99-704, such authority
25 shall apply to the quality of care provided by health carriers and networks
26 operating in this state and shall not apply to the benefits offered by any
27 health carrier and network or to the administration of such benefits.

28
29 SECTION 5031. Arkansas Code § 23-99-706 is amended to read as follows:
30 23-99-706. Enforcement and penalties.

31 The ~~Director~~ Secretary of the Department of Health shall have the power
32 to implement and enforce this subchapter.

33
34 SECTION 5032. Arkansas Code Title 25, Chapter 9, is repealed.

35 ~~Chapter 9 — Department of Health~~

36

1 ~~25-9-101. Creation—Director—Organization—Personnel.~~

2 ~~(a)(1) There is created the Department of Health, which is to be~~
3 ~~established if the Governor orders the separation of the Division of Health~~
4 ~~of the Department of Health and Human Services from the Department of Health~~
5 ~~and Human Services.~~

6 ~~(2) Unless stated otherwise, all references in this chapter to~~
7 ~~“director” shall mean the Director of the Department of Health, if~~
8 ~~established, and otherwise the Director of the Division of Health of the~~
9 ~~Department of Health and Human Services.~~

10 ~~(b)(1)(A) The director, with the advice and consent of the Governor,~~
11 ~~shall appoint the heads of the respective units of the Division of Health of~~
12 ~~the Department of Health and Human Services or the Department of Health.~~

13 ~~(B) All other personnel of the Department of Health shall~~
14 ~~be employed by and shall serve at the pleasure of the director.~~

15 ~~(2) However, nothing in this section shall be so construed as to~~
16 ~~reduce any right that an employee of the Division of Health of the Department~~
17 ~~of Health and Human Services or the Department of Health has under any civil~~
18 ~~service or merit system.~~

19 ~~(c)(1) Each unit of the Department of Health shall be under the~~
20 ~~direction, control, and supervision of the director.~~

21 ~~(2) The director may delegate his or her functions, powers, and~~
22 ~~duties to various units of the Department of Health as he or she shall deem~~
23 ~~desirable and necessary for the effective and efficient operation of the~~
24 ~~Department of Health.~~

25 ~~(d)(1) The Division of Health of the Department of Health and Human~~
26 ~~Services or the Department of Health shall maintain an Office of Oral Health.~~

27 ~~(2) The Director of the Office of Oral Health shall be an~~
28 ~~experienced public health dentist licensed to practice under the Arkansas~~
29 ~~Dental Practice Act, § 17-82-101 et seq.~~

30 ~~(3) The Director of the Office of Oral Health shall:~~

31 ~~(A) Plan, direct, and coordinate all dental public health~~
32 ~~programs with other local, state, and national health programs;~~

33 ~~(B) Serve as the department’s chief advisor on matters~~
34 ~~involving oral health; and~~

35 ~~(C) Plan, implement, and evaluate all oral health programs~~
36 ~~within the department.~~

1
2 ~~25-9-103. Patient care providers—Wages—Required withholding—~~
3 ~~Fringe benefits.~~

4 ~~(a) The Department of Health is authorized to pay wages and required~~
5 ~~state withholding, federal withholding, required matching, and other fringe~~
6 ~~benefits for patient care part-time intermittent contractual personnel who~~
7 ~~must be employed in order to provide services in the home.~~

8 ~~(b) These payments will be made from the appropriation for~~
9 ~~professional fees and services.~~

10
11 ~~25-9-104. Additional compensation—County Health Unit Administrators.~~

12 ~~(a) Any employee serving in the capacity of County Health Unit~~
13 ~~Administrator shall be eligible for up to ten percent (10%) of additional~~
14 ~~compensation within the grade during the period of time in which the employee~~
15 ~~occupies the position.~~

16 ~~(b) Employees on the highest level of their grade shall be eligible~~
17 ~~for additional compensation in an amount not to exceed five and one-half~~
18 ~~percent (5.5%) of their current salary upon assuming responsibility, and this~~
19 ~~amount shall not be construed as exceeding the line item maximum for the~~
20 ~~grade for that position.~~

21 ~~(c)(1) The Department of Health shall certify to the Chief Fiscal~~
22 ~~Officer of the State the assignment of duties of each employee in this~~
23 ~~position, the length of the assignment, and the location and reason for the~~
24 ~~assignment.~~

25 ~~(2) The Chief Fiscal Officer of the State shall approve the~~
26 ~~request prior to the awarding of additional compensation.~~

27
28 ~~25-9-105. Home health on-call and visit pay.~~

29 ~~(a) The Department of Health is hereby authorized to compensate the~~
30 ~~following personnel responsible for providing in-home health care as~~
31 ~~necessary to maintain continuity of care outside routine working hours on~~
32 ~~weekdays and on weekends or holidays:~~

33 ~~(1) R055 Hlth Public Hlth Nursing Prog. Coord;~~

34 ~~(2) L082 Nursing Services Specialist;~~

35 ~~(3) L033 Home Health Nurse I;~~

36 ~~(4) L034 Home Health Nurse II;~~

- 1 ~~(5) — L138 Speech Pathologist I;~~
- 2 ~~(6) — L140 Speech Pathologist II;~~
- 3 ~~(7) — L142 Speech Pathologist Supervisor;~~
- 4 ~~(8) — L102 Physical Therapist I;~~
- 5 ~~(9) — L104 Physical Therapist II;~~
- 6 ~~(10) — L106 Physical Therapy Supervisor;~~
- 7 ~~(11) — M086 Social Worker I;~~
- 8 ~~(12) — M088 Social Worker II;~~
- 9 ~~(13) — L086 Occupational Therapist I;~~
- 10 ~~(14) — L088 Occupational Therapist II;~~
- 11 ~~(15) — L090 Occupational Therapist Supervisor;~~
- 12 ~~(16) — R056 Hlth. Pub. Hlth. Nursing Program Administrator;~~
- 13 ~~(17) — L047 LPN I;~~
- 14 ~~(18) — L049 LPN II;~~
- 15 ~~(19) — L154 Public Hlth. Nurse I;~~
- 16 ~~(20) — L156 Public Hlth. Nurse II;~~
- 17 ~~(21) — L021 PH Technician II; and~~
- 18 ~~(22) — L155 PH Technician I.~~

19 ~~(b)(1) — Visit pay shall not exceed forty-five dollars (\$45.00) per~~
20 ~~visit.~~

21 ~~(2) — Employees requested to be on call or on standby, or both,~~
22 ~~for visiting on nights, weekends or holidays, or both, will be eligible to~~
23 ~~receive on call pay not to exceed thirty dollars (\$30.00) per day.~~

24 ~~(3)(A) — Provided, however, no compensation shall be paid to any~~
25 ~~employees required to be on call or on standby, or both, who fail to respond~~
26 ~~after the second notification that their services are needed.~~

27 ~~(B) — In the event of equipment or paging device~~
28 ~~malfunction, the penalty shall not apply.~~

29 ~~(4) — All compensated services shall be provided as directed by~~
30 ~~the department.~~

31 ~~(5)(A) — All visit and on call pay shall be paid from funds from~~
32 ~~in home services extra salaries as appropriated in this act.~~

33 ~~(B) — The compensation for visit and on call pay when added~~
34 ~~to the employee's regular salary and benefits shall not be construed as~~
35 ~~exceeding the maximum annual salary as described in the General Accounting~~
36 ~~and Budgetary Procedures Law, § 19-4-101 et seq.~~

1
2 ~~25-9-106. Community Alcohol Safety Program—Definition.~~

3 ~~(a) On or after July 1, 1999, all powers, duties, functions, records,~~
4 ~~and funds administered or provided by other support divisions within the~~
5 ~~Arkansas Department of Transportation for the Traffic Safety Section of the~~
6 ~~Planning and Research Division regarding or relating to the state alcohol~~
7 ~~program, commonly known as the “Community Alcohol Safety Program”,~~
8 ~~administered by the Arkansas Department of Transportation under the laws of~~
9 ~~this state and transferred to the Arkansas Department of Transportation by~~
10 ~~Acts 1989, 1st Ex. Sess., No. 153, shall be transferred by a type 2 transfer,~~
11 ~~as defined in § 25-2-105, to the Division of Aging, Adult, and Behavioral~~
12 ~~Health Services of the Department of Human Services.~~

13 ~~(b) As used in this section, “funds” means all funds derived from the~~
14 ~~State Administration of Justice Fund under § 16-10-310 for usage by the state~~
15 ~~alcohol program, education fees paid by offenders of the Omnibus DWI or BWI~~
16 ~~Act, § 5-65-101 et seq., and the appropriation for community alcohol safety.~~

17
18 ~~25-9-107. Transfer of personnel under § 25-9-106.~~

19 ~~All personnel transferred from the Arkansas Department of~~
20 ~~Transportation under § 25-9-106 are eligible for employment under this~~
21 ~~section in a comparable position with the Division of Aging, Adult, and~~
22 ~~Behavioral Health Services of the Department of Human Services.~~

23
24 SECTION 5033. Arkansas Code Title 25, Chapter 42, is repealed.

25 Chapter 42—

26 Health Information Technology

27
28 ~~25-42-101. Purpose.~~

29 ~~The purpose of this chapter is to:~~

30 ~~(1) Establish the Office of Health Information Technology; and~~
31 ~~(2) Authorize the Office of Health Information Technology to~~
32 ~~transfer to a nonprofit corporation the State Health Alliance for Records~~
33 ~~Exchange.~~

34
35 ~~25-42-102. Policy.~~

36 ~~(a) The coordination of health information technology activities~~

1 throughout Arkansas by the Office of Health Information Technology is
2 necessary to obtain the maximum potential value from the investment of
3 federal and state resources to increase the use of health information
4 technology.

5 (b) ~~The exchange of health information made possible by the State~~
6 ~~Health Alliance for Records Exchange can improve the quality of health of~~
7 ~~Arkansas citizens by reducing the potential for medical errors, reducing the~~
8 ~~incidence of redundant tests and procedures, improving patient safety, and~~
9 ~~making the delivery of healthcare services more efficient and affordable.~~

10 (c) ~~The Office of Health Information Technology and the State Health~~
11 ~~Alliance for Records Exchange shall respect and safeguard each person's~~
12 ~~privacy interests in his or her health and medical information.~~

13
14 ~~25-42-103. Office of Health Information Technology—Creation.~~

15 ~~The Office of Health Information Technology is created within the~~
16 ~~Department of Health.~~

17
18 ~~25-42-104.—Definitions.~~

19 ~~As used in this chapter:~~

20 (1) ~~“Agency” means any agency, board, commission, public~~
21 ~~instrumentality, political subdivision, or any of the foregoing entities~~
22 ~~acting on behalf of the State of Arkansas that store, gather, or generate~~
23 ~~health information;~~

24 (2) ~~“Deidentified” means the same as the meaning under the~~
25 ~~Health Insurance Portability and Accountability Act of 1996, Public Law No.~~
26 ~~104-191;~~

27 (3) ~~“Health information” means any information, whether oral or~~
28 ~~recorded in any form or medium, that:~~

29 (A) ~~Is created or received by:~~

30 (i) ~~A provider of health care;~~

31 (ii) ~~A health plan;~~

32 (iii) ~~A public health authority;~~

33 (iv) ~~An employer;~~

34 (v) ~~A health insurer;~~

35 (vi) ~~A school or university; or~~

36 (vii) ~~A health care clearinghouse; and~~

1 ~~(B) Relates to the:~~

2 ~~(i) Past, present, or future physical or mental~~
3 ~~health or condition of an individual;~~

4 ~~(ii) Provision of health care to an individual; or~~

5 ~~(iii) Past, present, or future payment for the~~
6 ~~provision of health care to an individual;~~

7 ~~(4) "Health information exchange" means the electronic movement~~
8 ~~of health related information among organizations according to nationally~~
9 ~~recognized standards;~~

10 ~~(5) "Health information technology" means the application of~~
11 ~~information processing involving both computer hardware and software and~~
12 ~~other technology devices that deal with the storage, retrieval, sharing, and~~
13 ~~use of health care information, data, and knowledge for communication and~~
14 ~~decision-making;~~

15 ~~(6) "Identified" means the same as the meaning under the Health~~
16 ~~Insurance Portability and Accountability Act of 1996, Public Law No. 104-191;~~

17 ~~(7) "Nonprofit corporation" means a corporation no part of the~~
18 ~~income of which is distributable to its members, directors, or officers as~~
19 ~~under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.; and~~

20 ~~(8) "State Health Alliance for Records Exchange" means the~~
21 ~~entity responsible for the processes and procedures that enable the~~
22 ~~electronic exchange of interoperable health information in Arkansas.~~

23
24 ~~25-42-105. Duties and responsibilities.~~

25 ~~(a) The Office of Health Information Technology shall coordinate the~~
26 ~~health information technology initiatives of the state with relevant~~
27 ~~executive branch agencies, including without limitation state boards,~~
28 ~~commissions, nonprofit corporations, and institutions of higher education.~~

29 ~~(b) The Office of Health Information Technology Coordinator shall be~~
30 ~~selected and serve in a manner prescribed by the Director of the Department~~
31 ~~of Health.~~

32 ~~(c) The office shall:~~

33 ~~(1) Assure the effective coordination and collaboration of~~
34 ~~health information technology planning, development, implementation, and~~
35 ~~financing;~~

36 ~~(2) Review all health information technology related grant~~

1 ~~applications before submission to funding entities;~~

2 ~~(3) Accept, receive, retain, disburse, and administer any state~~
3 ~~special or general revenue funds or federal funds specifically appropriated~~
4 ~~for health information technology;~~

5 ~~(4) Make contracts and execute all instruments necessary or~~
6 ~~convenient for carrying out its business;~~

7 ~~(5) Recommend to the State Board of Health regarding rules~~
8 ~~necessary to carry out the policies and objectives of this chapter;~~

9 ~~(6) Plan, establish, and operate the State Health Alliance for~~
10 ~~Records Exchange until the time when the operational responsibility and~~
11 ~~authority for the State Health Alliance for Records Exchange is transferred~~
12 ~~to a nonprofit corporation; and~~

13 ~~(7)(A) Establish reasonable fees or charges for the use of the~~
14 ~~State Health Alliance for Records Exchange to fund the operational costs of~~
15 ~~the State Health Alliance for Records Exchange and the office.~~

16 ~~(B) Fees or charges established under subdivision~~
17 ~~(c)(7)(A) of this section shall be set with the input and guidance of the~~
18 ~~users of the State Health Alliance for Records Exchange, stakeholders, and~~
19 ~~other interested parties.~~

20 ~~(C) Fees or charges established under subdivision~~
21 ~~(c)(7)(A) of this section shall not exceed the total cost of operating the~~
22 ~~State Health Alliance for Records Exchange, not including staffing costs for~~
23 ~~the State Health Alliance for Records Exchange and the office.~~

24 ~~(D) Users of data under this chapter shall be charged in a~~
25 ~~manner that is proportional to their use of the State Health Alliance for~~
26 ~~Records Exchange.~~

27 ~~(E) Revenue generated by the fees or charges under~~
28 ~~subdivision (c)(7) of this section shall be deposited into the Health~~
29 ~~Information Technology Fund, § 19-5-1244.~~

30
31 ~~25-42-106. State Health Alliance for Records Exchange—Duties.~~

32 ~~(a) The State Health Alliance For Records Exchange shall:~~

33 ~~(1) Serve as the official health information exchange for the~~
34 ~~State of Arkansas;~~

35 ~~(2) Be organized for the purpose of improving the health of~~
36 ~~Arkansans by:~~

1 ~~(A) Promoting efficient and effective communication among~~
2 ~~multiple healthcare providers, including without limitation hospitals,~~
3 ~~physicians, payers, employers, pharmacies, laboratories, and other healthcare~~
4 ~~entities;~~

5 ~~(B) Creating efficiencies in healthcare costs by~~
6 ~~eliminating redundancy in data capture and storage and reducing~~
7 ~~administrative, billing, and data collection costs;~~

8 ~~(C) Creating the ability to monitor community health~~
9 ~~status; and~~

10 ~~(D) Providing reliable information to healthcare consumers~~
11 ~~and purchasers regarding the quality and cost-effectiveness of health care,~~
12 ~~health plans, and healthcare providers;~~

13 ~~(3)(A) Until a nonprofit corporation operates the State Health~~
14 ~~Alliance for Records Exchange, the State Health Alliance for Records Exchange~~
15 ~~shall be established and operated by the Office of Health Information~~
16 ~~Technology with the advice of the Health Information Exchange Council,~~
17 ~~consisting of the following members appointed by the Director of the~~
18 ~~Department of Health:~~

19 ~~(i) The Office of Health Information Technology~~
20 ~~Coordinator;~~

21 ~~(ii) A representative of the Department of Finance~~
22 ~~and Administration;~~

23 ~~(iii) A representative of the Department of Human~~
24 ~~Services;~~

25 ~~(iv) A representative of the Department of~~
26 ~~Information Systems;~~

27 ~~(v) A representative of the health insurance~~
28 ~~industry;~~

29 ~~(vi) A representative of the Arkansas Foundation for~~
30 ~~Medical Care, Inc.;~~

31 ~~(vii) A representative of the Arkansas Hospital~~
32 ~~Association, Inc.;~~

33 ~~(viii) A representative of the Arkansas Medical~~
34 ~~Society, Inc.;~~

35 ~~(ix) A representative of the Arkansas Minority~~
36 ~~Health Commission;~~

1 ~~(x) — A representative of the Arkansas Nurses~~
2 ~~Association;~~

3 ~~(xi) — A representative of the Division of Science and~~
4 ~~Technology of the Arkansas Economic Development Commission;~~

5 ~~(xii) — A representative of the Arkansas Pharmacists~~
6 ~~Association;~~

7 ~~(xiii) — A representative of the business community;~~

8 ~~(xiv) — A representative of the Community Health~~
9 ~~Centers of Arkansas, Inc.;~~

10 ~~(xv) — A representative of the University of Arkansas~~
11 ~~for Medical Sciences;~~

12 ~~(xvi) — A representative of the Arkansas Health Care~~
13 ~~Association; and~~

14 ~~(xvii) — Two (2) healthcare consumers.~~

15 ~~(b) — The Chair of the Health Information Exchange Council shall be~~
16 ~~elected by the members of the council.~~

17 ~~(c) — All members will serve until the operational responsibility and~~
18 ~~authority for the State Health Alliance for Records Exchange is transferred~~
19 ~~to a nonprofit corporation.~~

20 ~~(d)(1) — The State Health Alliance for Records Exchange is not a~~
21 ~~healthcare provider and is not subject to claims under § 16-114-201 et seq.~~

22 ~~(2) — A person who participates in or subscribes to the services~~
23 ~~or information provided by the State Health Alliance for Records Exchange~~
24 ~~shall not be liable in any action for damages or cost of any nature that~~
25 ~~results solely from the person's use or failure to use the State Health~~
26 ~~Alliance for Records Exchange information or data that was imputed or~~
27 ~~retrieved under the Health Insurance Portability and Accountability Act of~~
28 ~~1996, as it existed on January 1, 2011, and regulations adopted under the~~
29 ~~act, state confidentiality laws and the rules of the State Health Alliance~~
30 ~~for Records Exchange as approved by the Office of Health Information~~
31 ~~Technology or the governing body of the nonprofit corporation.~~

32 ~~(3) — A person shall not be subject to antitrust or unfair~~
33 ~~competition liability based on membership or participation in the State~~
34 ~~Health Alliance for Records Exchange, which provides an essential~~
35 ~~governmental function for the public health and safety and enjoys state~~
36 ~~action immunity.~~

1 ~~(e) A person who provides information and data to the State Health~~
2 ~~Alliance for Records Exchange retains a property right in the information or~~
3 ~~data but grants to the other participants or subscribers a nonexclusive~~
4 ~~license to retrieve and use that information or data under the Health~~
5 ~~Insurance Portability and Accountability Act of 1996, as it existed on~~
6 ~~January 1, 2011, and any amendments and regulations adopted under the act,~~
7 ~~state confidentiality laws, and the rules of the State Health Alliance for~~
8 ~~Records Exchange.~~

9 ~~(f) All processes or software developed, designed, or purchased by the~~
10 ~~State Health Alliance for Records Exchange shall remain the property of the~~
11 ~~State Health Alliance for Records Exchange subject to use by participants or~~
12 ~~subscribers under the rules of the State Health Alliance for Records~~
13 ~~Exchange.~~

14 ~~(g) Patient-specific protected health information shall be disclosed~~
15 ~~only in accordance with the patient's authorization or in compliance with~~
16 ~~state confidentiality laws and the Health Insurance Portability and~~
17 ~~Accountability Act of 1996, as it existed on January 1, 2011, and regulations~~
18 ~~under the act.~~

19 ~~(h) No later than December 31, 2014, executive branch agencies,~~
20 ~~including state boards, commissions, nonprofit corporations, and institutions~~
21 ~~of higher education, that implement, acquire, or upgrade health information~~
22 ~~technology systems shall use health information technology systems and~~
23 ~~products that meet minimum standards adopted by the State Health Alliance for~~
24 ~~Records Exchange.~~

25 ~~(i) All identified or deidentified health information contained in,~~
26 ~~stored in, submitted to, transferred by, or released from the State Health~~
27 ~~Alliance for Records Exchange is not disclosable under applicable state or~~
28 ~~federal law except to:~~

29 ~~(1) A healthcare provider; or~~

30 ~~(2) Other authorized person or entity as described by policies~~
31 ~~and rules promulgated by the State Board of Health or the State Alliance for~~
32 ~~Records Exchange.~~

33 ~~(j)(1) Upon the transfer to a nonprofit corporation, the State Health~~
34 ~~Alliance for Records Exchange shall be governed under the bylaws and~~
35 ~~incorporation documents of the corporation.~~

36 ~~(2) The bylaws and incorporation documents of the corporation~~

1 ~~shall further only the objectives and policies set forth in this chapter.~~

2
3 SECTION 5034. Arkansas Code § 26-57-1106(a)(2)(B), concerning the
4 distribution of funds for breast cancer research and control, is amended to
5 read as follows:

6 (B) The ~~Director~~ Secretary of the Department of Health
7 shall be the disbursing officer for the Breast Cancer Control Fund, and the
8 Chancellor of the University of Arkansas for Medical Sciences shall be the
9 disbursing officer for the Breast Cancer Research Fund.

10
11 SECTION 5035. Arkansas Code § 27-3-103(b)(3), concerning the
12 establishment of the Arkansas Public Transportation Coordination Council, is
13 amended to read as follows:

14 (3) The remaining seven (7) members of the Arkansas Public
15 Transportation Coordination Council shall be:

16 (A) The ~~Director~~ Secretary of the Department of Human
17 Services or his or her designee;

18 (B) The Director of State Highways and Transportation or
19 his or her designee;

20 (C) The ~~Director~~ Secretary of the Department of Health or
21 his or her designee;

22 (D) The Chair of the Arkansas Economic Development Council
23 or his or her designee;

24 (E) The ~~Executive~~ Director of the Arkansas Economic
25 Development Commission or his or her designee;

26 (F) The Director of the University of Arkansas Cooperative
27 Extension Service or his or her designee; and

28 (G) The Chair of the Arkansas Workforce Development Board
29 or his or her successor or designee.

30
31 SECTION 5036. Arkansas Code § 27-101-405(a)(2), concerning the
32 establishment of the Marine Sanitation Advisory Committee, is amended to read
33 as follows:

34 (2) Two (2) members from the state at large to be appointed by
35 the Governor after consulting with the ~~Director~~ Secretary of the Department
36 of Health and the Director of the ~~Arkansas Department~~ Division of

1 Environmental Quality; and

2
3 SECTION 5037. Arkansas Code Title 25, Chapter 43, is amended to add an
4 additional subchapter to read as follows:

5 Subchapter 9 – Department of Human Services

6
7 25-43-901. Department of Human Services.

8 There is created the Department of Human Services as a cabinet-level
9 department.

10
11 25-43-902. State entities transferred to Department of Human Services.

12 (a) The administrative functions of the following state entities are
13 transferred to the Department of Human Services by a cabinet-level department
14 transfer:

15 (1) The Arkansas Alcohol and Drug Abuse Coordinating Council,
16 created under § 20-64-1002;

17 (2) The Arkansas Drug Director, created under § 20-64-1001;

18 (3) The Arkansas State Council for Interstate Juvenile
19 Supervision, created under § 9-29-401;

20 (4) The Board of Developmental Disabilities Services, created
21 under § 20-48-203;

22 (5) The Civilian Student Training Program, created under § 12-
23 61-124;

24 (6) The Department of Human Services, created under § 25-43-901;

25 (7) The Division of Aging, Adult, and Behavioral Services of the
26 Department of Human Services, created under § 20-46-301;

27 (8) The Division of Child Care and Early Childhood Education,
28 created under § 20-78-205;

29 (9) The Division of Children and Family Services, created under
30 §§ 9-28-102 and 25-10-102;

31 (10) The Division of County Operations, created under § 25-10-
32 102;

33 (11) The Division of Developmental Disabilities Services,
34 created under § 25-10-102;

35 (12) The Division of Medical Services, created under § 25-10-
36 102;

1 (13) The Division of Provider Services and Quality Assurance,
2 created under § 25-10-102;

3 (14) The Division of Youth Services, created under §§ 9-28-202
4 and 25-10-102; and

5 (15) The Youth Justice Reform Board, created under § 9-28-1201.

6 (b) Unless otherwise provided by law, a cabinet-level department
7 transfer under subsection (a) of this section includes all state entities
8 under a state entity transferred to the Department of Human Services under
9 subsection (a) of this section, including without limitation a division,
10 office, program, or other unit of a state entity transferred to the
11 Department of Human Services under subsection (a) of this section.

12 (c) Unless otherwise provided by law, a state entity whose
13 administrative functions have been transferred to the Human Services under
14 subsection (a) of this section shall otherwise continue to exercise the
15 duties of the state entity under the administration of the cabinet-level
16 Department of Human Services in the same manner as before the creation of the
17 cabinet-level department.

18
19 25-43-903. Secretary of the Department of Human Services.

20 (a) The executive head of the Department of Human Services shall be
21 the Secretary of the Department of Human Services.

22 (b) The secretary shall be appointed by the Governor, subject to
23 confirmation by the Senate, and shall serve at the pleasure of the Governor.

24 (c) Each division of the department shall be under the direction,
25 control, and supervision of the secretary.

26 (d) The secretary may delegate his or her functions, powers, and
27 duties to various divisions or employees of the department as he or she shall
28 deem desirable and necessary for the effective and efficient operation of the
29 department.

30 (e) The secretary may, unless otherwise provided by law:

31 (1) Hire department personnel;

32 (2) Perform or assign duties assigned to the department; and

33 (3) Serve as the director, or the administrative or executive
34 head of any state entity under the administrative control of the department
35 if the secretary also meets all statutory requirements for the position.

36

1 25-43-904. Civilian Student Training Program.

2 (a) There is created within the Department of Human Services the
3 Civilian Student Training Program.

4 (b) Juvenile participants in the Civilian Student Training Program at
5 Camp Joseph T. Robinson receiving services from the Arkansas National Guard
6 are authorized to receive a monetary stipend, not to exceed ten dollars
7 (\$10.00) per week to defray personal hygiene and other personal necessities.

8 (b) Juvenile participants are authorized to receive uniforms and
9 clothing items as determined by the staff to be appropriate for effective
10 participation in outdoor activities.

11 (c) Transportation to support Civilian Student Training Program
12 activities for juvenile participants and staff may be provided by commercial
13 lease or purchase of motor vehicles not to exceed six (6) vehicles.

14
15 SECTION 5038. Arkansas Code § 5-2-315(a), concerning the discharge or
16 conditional release from psychiatric or psychological care, is amended to
17 read as follows:

18 (a)(1)(A) When the ~~Director~~ Secretary of the Department of Human
19 Services or his or her designee determines that a person acquitted has
20 recovered from his or her mental disease or defect to such an extent that his
21 or her release or his or her conditional release under a prescribed regimen
22 of medical, psychiatric, or psychological care or treatment would no longer
23 create a substantial risk of bodily injury to another person or serious
24 damage to the property of another person, the ~~director~~ secretary shall
25 promptly file an application for discharge or conditional release of the
26 person acquitted with the circuit court that ordered the commitment.

27 (B) In addition, if the person acquitted has an impairment
28 due to alcohol or substance abuse, the ~~director~~ secretary may petition the
29 circuit court for involuntary commitment under § 20-64-815.

30 (2) The ~~director~~ secretary shall send a copy of the application
31 to the counsel for the person acquitted and to the attorney for the state.

32
33 SECTION 5039. Arkansas Code § 5-2-315(f)(1), concerning the discharge
34 or conditional release from psychiatric or psychological care, is amended to
35 read as follows:

36 (f)(1) Regardless of whether the ~~director~~ secretary or his or her

1 designee has filed an application pursuant to a provision of subsection (a)
2 of this section, and at any time during the commitment of the person
3 acquitted, a person acquitted, his or her counsel, or his or her legal
4 guardian may file with the circuit court that ordered the commitment a motion
5 for a hearing to determine whether the person acquitted should be discharged
6 from the facility in which the person acquitted is committed.

7
8 SECTION 5040. Arkansas Code § 5-2-316(a)(1), concerning the
9 conditional release and the subsequent discharge, modification, or revocation
10 of the conditional release, is amended to read as follows:

11 (a)(1) The ~~Director~~ Secretary of the Department of Human Services or
12 his or her designee or a person conditionally released under § 5-2-315, or
13 both, may apply to the court ordering the conditional release for discharge
14 from or modification of the order granting conditional release on the ground
15 that the person conditionally released under § 5-2-315 may be discharged or
16 the order modified without danger to the person conditionally released under
17 § 5-2-315 or to the person or property of another person.

18
19 SECTION 5041. Arkansas Code § 5-2-316(b)(2)(A), concerning the
20 conditional release and the subsequent discharge, modification, or revocation
21 of the conditional release, is amended to read as follows:

22 (2)(A) If an order is entered revoking the most recent order of
23 conditional release under subdivision (b)(1) of this section, all conditions
24 of the release shall be abated, and the person shall be ordered to be
25 committed to the custody of the ~~director~~ secretary or the ~~director's~~
26 secretary's designee.

27
28 SECTION 5042. Arkansas Code § 5-2-317(a), concerning the jurisdiction
29 of a circuit court over a person acquitted by reason of mental disease or
30 defect and the venue for a hearing, is amended to read as follows:

31 (a) A circuit court has exclusive jurisdiction over a person acquitted
32 by reason of mental disease or defect and committed to the custody of the
33 ~~Director~~ Secretary of the Department of Human Services pursuant to § 5-2-
34 314(b).

35
36 SECTION 5043. Arkansas Code § 5-55-104(a)-(e), concerning

1 authorization for Medicaid by the Director of the Department of Human
2 Services, are amended to read as follows:

3 (a) No potential Medicaid recipient is eligible for medical assistance
4 unless he or she has authorized in writing the ~~Director~~ Secretary of the
5 Department of Human Services to examine all records of the potential Medicaid
6 recipient's own, or of those receiving or having received Medicaid benefits
7 through him or her, whether or not the receipt of the benefits would be
8 allowed by the Arkansas Medicaid Program, for the purpose of investigating
9 whether any person may have committed the crime of Medicaid fraud or for use
10 or potential use in any legal, administrative, or judicial proceeding.

11 (b) No person is eligible to receive any payment from the Arkansas
12 Medicaid Program or its fiscal agents unless the person has authorized in
13 writing the ~~director~~ secretary to examine all records for the purpose of
14 investigating whether any person may have committed the crime of Medicaid
15 fraud or for use or for potential use in any legal, administrative, or
16 judicial proceeding.

17 (c) The Attorney General and the prosecuting attorneys are allowed
18 access to all records of persons and Medicaid recipients under the Arkansas
19 Medicaid Program to which the ~~director~~ secretary has access for the purpose
20 of investigating whether any person may have committed the crime of Medicaid
21 fraud or for use or potential use in any legal, administrative, or judicial
22 proceeding.

23 (d) Notwithstanding any other law to the contrary, no person is
24 subject to any civil or criminal liability for providing access to records to
25 the ~~director~~ secretary, the Attorney General, or the prosecuting attorneys.

26 (e) Records obtained by the ~~director~~ secretary, the Attorney General,
27 or the prosecuting attorneys pursuant to this subchapter are classified as
28 confidential information and are not subject to outside review or release by
29 any individual except when records are used or potentially to be used by any
30 government entity in any legal, administrative, or judicial proceeding.

31

32 SECTION 5044. Arkansas Code § 5-55-110 is amended to read as follows:

33 5-55-110. Suspension of violators.

34 The ~~Director~~ Secretary of the Department of Human Services may suspend
35 or revoke the provider agreement between the Department of Human Services and
36 a person in the event the person is found guilty of violating a provision of

1 this subchapter.

2

3 SECTION 5045. Arkansas Code § 5-55-111(7)(B)(iii)(b), concerning
4 criminal acts constituting Medicaid fraud, is amended to read as follows:

5 (b) In the case of an entity that is a
6 provider of services as defined in § 20-9-101, the person discloses in such
7 form and manner as the ~~Director~~ Secretary of the Department of Human Services
8 requires to the entity and, upon request, to the ~~director~~ secretary, the
9 amount received from each vendor with respect to purchases made by or on
10 behalf of the entity; or

11

12 SECTION 5046. Arkansas Code § 5-55-111(7)(B)(iv), concerning criminal
13 acts constituting Medicaid fraud, is amended to read as follows:

14 (iv) Any payment practice specified by the ~~director~~
15 secretary promulgated pursuant to applicable federal or state law;

16

17 SECTION 5047. Arkansas Code § 9-27-310(c), concerning the commencement
18 of proceedings, is amended to read as follows:

19 (c) Concurrent with filing, a copy of any petition that requests that
20 the Department of Human Services take custody or provide family services
21 shall be mailed to the ~~Director~~ Secretary of the Department of Human Services
22 and to the attorney of the local Office of Chief Counsel of the Department of
23 Human Services by the petitioner.

24

25 SECTION 5048. Arkansas Code § 9-27-333(a), concerning the disposition
26 of family service funds and limitations, is amended to read as follows:

27 (a) At least five (5) working days before ordering the Department of
28 Human Services, excluding community-based providers, to provide or pay for
29 family services, the circuit court shall fax a written notice of intent to
30 the ~~Director~~ Secretary of the Department of Human Services and to the
31 attorney of the local Office of Chief Counsel of the Department of Human
32 Services.

33

34 SECTION 5049. Arkansas Code § 9-27-335(a)(1), concerning the
35 limitations on the disposition of family service funds, is amended to read as
36 follows:

1 (a)(1) At least five (5) working days before ordering the Department
2 of Human Services, excluding community-based providers, to provide or pay for
3 family services in any case in which the department is not a party, the
4 circuit court shall fax a written notice of intent to the ~~Director~~ Secretary
5 of the Department of Human Services and to the attorney of the local office
6 of chief counsel of the department.

7
8 SECTION 5050. Arkansas Code § 9-28-119(b)(2), concerning the
9 definitions in regard to the Department of Human Services' power to obtain
10 information, is amended to read as follows:

11 (2) The ~~Director~~ Secretary of the Department of Human Services
12 may enter into cooperative agreements with other state agencies, businesses,
13 or financial entities to provide direct online access to data information
14 terminals, computers, or other electronic information systems.

15
16 SECTION 5051. Arkansas Code § 9-28-202(b), concerning creation of the
17 Division of Youth Services and the Director of the Division of Youth Services
18 of the Department of Human Services, is amended to read as follows:

19 (b)(1) The Governor may appoint the Director of the Division of Youth
20 Services of the Department of Human Services or may delegate that function to
21 the ~~Director~~ Secretary of the Department of Human Services.

22 (2) The director shall report to the secretary.

23
24 SECTION 5052. Arkansas Code § 9-28-301(a), concerning the inspections,
25 timing, report, and audit of facilities operated by the Division of Youth
26 Services by the Director of the Department of Human Services, is amended to
27 read as follows:

28 (a) In order to assure that juveniles committed to facilities operated
29 by or under contract with the Division of Youth Services of the Department of
30 Human Services are not subject to unsafe and unsanitary living conditions,
31 the ~~Director~~ Secretary of the Department of Human Services or a duly
32 authorized agent is authorized to enter the controlled premises and conduct
33 random and unannounced health inspections of the facilities.

34
35 SECTION 5053. Arkansas Code § 9-28-301(e) and (f), concerning the
36 inspections, timing, report, and audit of facilities operated by the Division

1 of Youth Services by Director of the Department of Human Services, are
2 amended to read as follows:

3 (e)(1) The ~~Director~~ Secretary of the Department of Health shall
4 present a list of findings of the random health inspections to the House
5 Committee on Aging, Children and Youth, Legislative and Military Affairs and
6 the Senate Interim Committee on Children and Youth within one (1) month after
7 completing the random health inspections.

8 (2)(A) In the event the General Assembly is in session, the
9 ~~Director~~ Secretary of the Department of Health shall provide the report to
10 the House Committee on Aging, Children and Youth, Legislative and Military
11 Affairs and the Chair of the Senate Committee on Children and Youth.

12 (B) The complete report, including, but not limited to,
13 statistics shall be made available to the public.

14 (f)(1) The ~~Director~~ Secretary of the Department of Human Services or
15 the division shall file the report, along with a response not to exceed two
16 (2) pages, to the House Committee on Aging, Children and Youth, Legislative
17 and Military Affairs and the Senate Interim Committee on Children and Youth
18 within thirty (30) days after receiving an inspection report prepared by the
19 Department of Health.

20 (2) In the event the General Assembly is in session, the
21 ~~Director~~ Secretary of the Department of Human Services shall provide the
22 response to the House Committee on Aging, Children and Youth, Legislative and
23 Military Affairs and the Chair of the Senate Committee on Children and Youth.

24 (3) The response shall include a plan of correction and suggest
25 a means by which the Department of Human Services or the division will
26 correct any deficiencies within thirty (30) days of the filing of the report
27 or within the time frame determined by the Department of Health to ensure the
28 health and safety of the juveniles housed at the facility.

29

30 SECTION 5054. Arkansas Code § 9-28-301(g)(4), concerning the
31 inspections, timing, report, and audit of juvenile detention facilities
32 operated by the Division of Youth Services by the Director of the Department
33 of Human Services, is amended to read as follows:

34 (4) In the event the General Assembly is in session, the
35 ~~Director~~ Secretary of the Department of Human Services shall provide the
36 report to the House Committee on Aging, Children and Youth, Legislative and

1 Military Affairs and the Chair of the Senate Committee on Children and Youth.
2

3 SECTION 5055. Arkansas Code § 9-28-301(h), concerning the inspections,
4 timing, report, and audit of juvenile detention facilities operated by the
5 Division of Youth Services by the Director of the Department of Human
6 Services, is amended to read as follows:

7 (h) The ~~Director~~ Secretary of the Department of Human Services shall
8 be required to close any facility when deficiencies are deemed by the
9 Department of Health to be a danger to the health or safety of juveniles
10 housed at such a facility.
11

12 SECTION 5056. Arkansas Code § 9-28-302(f)(1) and (2), concerning
13 security inspections of juvenile detention facilities operated by the
14 Division of Youth Services, are amended to read as follows:

15 (f)(1) The ~~Director~~ Secretary of the Department of Human Services or
16 the division shall file the report, along with a response not to exceed two
17 (2) pages, to the House Committee on Aging, Children and Youth, Legislative
18 and Military Affairs and the Senate Interim Committee on Children and Youth
19 within thirty (30) days of receiving an inspection report prepared by the
20 Department of Correction.

21 (2) In the event the General Assembly is in session, the
22 ~~Director~~ Secretary of the Department of Human Services shall provide the
23 response to the House Committee on Aging, Children and Youth, Legislative and
24 Military Affairs and the Chair of the Senate Committee on Children and Youth.
25

26 SECTION 5057. Arkansas Code § 9-28-302(g)(3)(B), concerning security
27 inspections of juvenile detention facilities operated by the Division of
28 Youth Services, is amended to read as follows:

29 (B) In the event the General Assembly is in session, the
30 ~~Director~~ Secretary of the Department of Human Services shall provide the
31 report to the House Committee on Aging, Children and Youth, Legislative and
32 Military Affairs and the Chair of the Senate Committee on Children and Youth.
33

34 SECTION 5058. Arkansas Code § 9-28-302(h), concerning security
35 inspections of juvenile detention facilities operated by the Division of
36 Youth Services, is amended to read as follows:

1 (h) The ~~Director~~ Secretary of the Department of Human Services shall
2 be required to close any facility when deficiencies are deemed by the
3 Department of ~~Correction~~ Corrections to be a danger to the health or safety
4 of juveniles housed at such facility.

5
6 SECTION 5059. Arkansas Code § 9-28-404(a)(1), concerning the
7 composition of the Child Welfare Agency Review Board, is amended to read as
8 follows:

9 (1) The director of the division within the Department of Human
10 Services designated by the ~~Director~~ Secretary of the Department of Human
11 Services to administer this subchapter or his or her designee;

12
13 SECTION 5060. Arkansas Code § 9-28-1201(b)(2)(C), concerning the
14 creation and membership of the Youth Justice Reform Board, is amended to read
15 as follows:

16 (C) Representatives from the ~~Department of Education~~
17 Division of Elementary and Secondary Education, ~~Department~~ Division of
18 Workforce Services, the Division of Children and Family Services of the
19 Department of Human Services, and the Division of Aging, Adult, and
20 Behavioral Health Services of the Department of Human Services;

21
22 SECTION 5061. Arkansas Code § 9-29-204 is amended to read as follows:

23 9-29-204. ~~Director~~ Secretary of the Department of Human Services to
24 determine when to discharge child.

25 As used in paragraph (a) of Article V of the Interstate Compact on the
26 Placement of Children, the phrase "appropriate authority in the receiving
27 state" with reference to this state means the ~~Director~~ Secretary of the
28 Department of Human Services.

29
30 SECTION 5062. Arkansas Code § 9-29-205 is amended to read as follows:

31 9-29-205. Agreements with other states pursuant to the compact.

32 The officers and agencies of this state and its subdivisions having
33 authority to place children are empowered to enter into agreements with
34 appropriate officers or agencies of or in other party states ~~pursuant to~~
35 under paragraph (b) of Article V of the Interstate Compact on the Placement
36 of Children. Any such agreement which contains a financial commitment or

1 imposes a financial obligation on this state or subdivision, or agency
2 thereof shall not be binding unless it has the approval in writing of the
3 ~~Director~~ Secretary of the Department of Human Services in the case of the
4 state and of the chief local fiscal officer in the case of a subdivision of
5 the state.

6
7 SECTION 5063. Arkansas Code § 9-31-201(3), concerning the definition
8 of "director" under the assessment, diagnosis, evaluation, placement, and
9 treatment services program, is repealed.

10 ~~(3) "Director" means the Director of the Department of Human~~
11 ~~Services.~~

12
13 SECTION 5064. Arkansas Code § 9-31-202(1)(B), concerning the
14 objectives and duties of the ADEPT program, is amended to read as follows:

15 (B) The target population to be served by this type of
16 program shall be defined by the ~~Director~~ Secretary of the Department of Human
17 Services;

18
19 SECTION 5065. Arkansas Code § 9-31-202(12)-(14), concerning the
20 objectives and duties of the ADEPT program, are amended to read as follows:

21 (12) Submit monthly reports to the ~~director~~ secretary that
22 include intake, closure, and follow-up data;

23 (13) Provide quarterly reports to the ~~director~~ secretary and to
24 the Bureau of Legislative Research; and

25 (14) Submit an annual report to the ~~director~~ secretary and to
26 the bureau summarizing the monthly reports and additional information,
27 including, but not limited to, the types of problems identified, treatment
28 services provided, and any identifiable service future needs.

29
30 SECTION 5066. Arkansas Code § 9-32-206(a) and (b), concerning the
31 provision of information and assistance from the divisions within the
32 Department of Human Services, are amended to read as follows:

33 (a) The Division of Youth Services of the Department of Human
34 Services, the Division of Aging, Adult, and Behavioral Health Services of the
35 Department of Human Services, and the Division of Children and Family
36 Services of the Department of Human Services shall make available to the

1 Senate Interim Committee on Children and Youth a list of all reports the unit
2 submits to the ~~Director~~ Secretary of the Department of Human Services.

3 (b) Under the direction of the ~~director~~ secretary, the Division of
4 Youth Services, the Division of Aging, Adult, and Behavioral Health Services,
5 and the Division of Children and Family Services shall work cooperatively
6 with and provide any necessary assistance to the Senate Interim Committee on
7 Children and Youth.

8

9 SECTION 5067. Arkansas Code § 10-3-2802(b)(4), concerning the creation
10 of the Interagency Task Force for the Implementation of Criminal Justice
11 Prevention Initiatives, is amended to read as follows:

12 (4) One (1) member appointed by the ~~Director~~ Secretary of the
13 Department of Human Services who represents the Division of Aging, Adult, and
14 Behavioral Health Services of the Department of Human Services;

15

16 SECTION 5068. Arkansas Code § 10-3-2802(b)(7) and (8), concerning the
17 creation of the Interagency Task Force for the Implementation of Criminal
18 Justice Prevention Initiatives, are amended to read as follows:

19 (7) The Director of the ~~Department~~ Division of Correction or his
20 or her designee;

21 (8) The Director of the ~~Department~~ Division of Community
22 Correction or his or her designee; and

23

24 SECTION 5069. Arkansas Code § 10-3-2802(d)(2), concerning the creation
25 of the Interagency Task Force for the Implementation of Criminal Justice
26 Prevention Initiatives, is amended to read as follows:

27 (2) To review performance and outcome measure reports submitted
28 semiannually by the ~~Department~~ Division of Correction, ~~Department~~ Division of
29 Community Correction, Parole Board, Board of Corrections, Arkansas Sentencing
30 Commission, and Specialty Court Program Advisory Committee under this act and
31 evaluate the impact;

32

33 SECTION 5070. Arkansas Code § 10-3-2901(b)(7), concerning the creation
34 of the Specialty Court Program Advisory Committee, is amended to read as
35 follows:

36 (7) The ~~Director~~ Secretary of the Department of Human Services

1 or the ~~director's~~ secretary's designee;

2

3 SECTION 5071. Arkansas Code § 12-12-1719 is amended to read as
4 follows:

5 12-12-1719. Delegation of authority.

6 The ~~Director~~ Secretary of the Department of Human Services may assign
7 responsibilities for administering the various duties imposed upon the
8 Department of Human Services under this subchapter to respective divisions of
9 the department that in the ~~director's~~ secretary's opinion are best able to
10 render service or administer the provisions of this subchapter.

11

12 SECTION 5072. Arkansas Code § 12-12-1723 is amended to read as
13 follows:

14 12-12-1723. Rules.

15 The ~~Director~~ Secretary of the Department of Human Services may adopt
16 rules to implement this subchapter.

17

18 SECTION 5073. Arkansas Code § 12-18-106(b), concerning cooperative
19 agreements initiated by the Department of Human Services and the Department
20 of Arkansas State Police, is amended to read as follows:

21 (b) The ~~Director~~ Secretary of the Department of Human Services may
22 enter into cooperative agreements with other states to create a national
23 child maltreatment registration system.

24

25 SECTION 5074. Arkansas Code § 12-18-908(f), concerning the removal of
26 a name from the Child Maltreatment Central Registry, is amended to read as
27 follows:

28 (f) The ~~Director~~ Secretary of the Department of Human Services shall
29 adopt rules necessary to carry out this chapter pursuant to the Arkansas
30 Administrative Procedure Act, § 25-15-201 et seq., except that the ~~director~~
31 secretary shall not begin the process under the Arkansas Administrative
32 Procedure Act, § 25-15-201 et seq., until the proposed rules have been
33 reviewed by the House Committee on Aging, Children and Youth, Legislative and
34 Military Affairs and the Senate Interim Committee on Children and Youth.

35

36 SECTION 5075. Arkansas Code § 16-87-216(c)(13)(B)(i), concerning the

1 Juvenile Ombudsman Division of the Arkansas Public Defender Commission, is
2 amended to read as follows:

3 (i) The ~~Director~~ Secretary of the Department of
4 Human Services and the Director of the Division of Youth Services of the
5 Department of Human Services;

6
7 SECTION 5076. Arkansas Code § 19-5-306(6)(A), concerning the
8 Department of Human Services Administration Fund Account, is amended to read
9 as follows:

10 (A) The Department of Human Services Administration Fund
11 Account shall be used for the maintenance, operation, and improvement
12 required by the office of the ~~Director~~ Secretary of the Department of Human
13 Services in carrying out the administrative duties and shared business
14 services of the Department of Human Services as set out in and under the
15 restrictions and provisions of § 20-46-301 and § 25-10-101 et seq.

16
17 SECTION 5077. Arkansas Code § 19-5-306(9)(B)(iv), concerning the
18 Department of Human Services Fund, is amended to read as follows:

19 (iv) Funds received from the ~~Department of Education~~
20 Division of Elementary and Secondary Education for surplus commodities; and
21

22 SECTION 5078. Arkansas Code § 19-5-953(b) and (c), concerning the
23 Long-Term Care Trust Fund, are amended to read as follows:

24 (b) The Long-Term Care Trust Fund shall consist of all moneys and
25 interest received from the imposition of civil penalties levied by the state
26 on long-term care facilities found to be out of compliance with the
27 requirements of federal or state law or regulations, there to be administered
28 by the ~~Director~~ Secretary of the Department of Human Services solely for the
29 protection of the health or property of residents of long-term care
30 facilities, including, but not limited to, the payment for the costs of
31 relocation of residents to other facilities, maintenance and operation of a
32 facility pending correction of deficiencies or closure, and reimbursement of
33 residents for personal funds lost.

34 (c) Funds from the Long-term Care Trust Fund may also be administered
35 by the ~~Director~~ Secretary of the Department of Human Services for programs or
36 uses that, in the determination of the Director of the Office of Long-Term

1 Care, enhance the quality of life for long-term care facility residents
2 through the adoption of principles and building designs established by the
3 Eden Alternative, Inc., or Green House Project programs or other means.
4

5 SECTION 5079. Arkansas Code § 19-5-1020(d), concerning the Department
6 of Human Services Renovation Fund, is amended to read as follows:

7 (d)(1) At the request of the ~~Director~~ Secretary of the Department of
8 Human Services and upon certification of the availability of such funds, the
9 Chief Fiscal Officer of the State shall initiate the necessary transfer
10 documents to reflect the transfer on the books of record of the Treasurer of
11 State, the Auditor of State, the Chief Fiscal Officer of the State, and the
12 department.

13 (2) The ~~director~~ secretary shall submit any transfer plan to and
14 must receive approval of the plan from the Chief Fiscal Officer of the State,
15 the Governor, and the Legislative Council prior to the effective date of the
16 transfer.
17

18 SECTION 5080. Arkansas Code § 19-5-1047(d)(2), concerning definitions
19 under the Arkansas Medicaid Rebate Program Revolving Fund Act of 1991, is
20 amended to read as follows:

21 (2) Any moneys accruing to the department through these rebates
22 shall be deposited into the State Treasury as nonrevenue receipts to be
23 credited to the fund and transferred by the ~~Director~~ Secretary of the
24 Department of Human Services to the Department of Human Services Medicaid
25 Paying Accounts Account to be used solely for paying pharmacy claims in the
26 Arkansas Medicaid Drug Rebate Program.
27

28 SECTION 5081. Arkansas Code § 19-5-1077(b), concerning the Client
29 Specific Emergency Services Revolving Fund Paying Account of the Office of
30 Finance and Administration, is amended to read as follows:

31 (b) The account shall be established and maintained in accordance with
32 procedures established by the Chief Fiscal Officer of the State for cash
33 funds and shall be administered under the direction of the ~~Director~~ Secretary
34 of the Department of Human Services.
35

36 SECTION 5082. Arkansas Code § 19-7-606 is amended to read as follows:

1 19-7-606. Transfer of reimbursements.

2 The ~~Director~~ Secretary of the Department of Human Services is
3 authorized to transfer from the Department of Human Services federal funds as
4 designated by the Chief Fiscal Officer of the State to the appropriate state
5 fund account those federal funds recovered as reimbursement for indirect
6 costs which are not required to be transferred to the Constitutional Officers
7 Fund or State Central Services Fund pursuant to this subchapter.

8
9 SECTION 5083. Arkansas Code § 19-7-701(a) and (b), concerning contract
10 services and advance payment, are amended to read as follows:

11 (a) In order to provide effective purchased services to the needy
12 citizens of Arkansas, the ~~Director~~ Secretary of the Department of Human
13 Services is authorized to pay one-twelfth (1/12) of the total amount of a
14 Title XX contract to the service provider on the effective date of the
15 contract. The amount of the advance payment shall be adjusted out of the
16 reimbursement actually earned by the provider during the contract period.

17 (b) This section will be used only after the ~~director~~ secretary has
18 conducted a study of the financial condition of the contracting agency to
19 determine if an advance payment is necessary. If the advance is necessary,
20 the ~~director~~ secretary shall forward his or her request and the reasons
21 therefor to the Chief Fiscal Officer of the State for approval.

22
23 SECTION 5084. Arkansas Code § 19-7-703(a), concerning loan provisions
24 for the Department of Human Services, is amended to read as follows:

25 (a) It is found and determined that the continued operations of the
26 Title XX Services Program of the Department of Human Services, in accordance
27 with the approved annual operations plan, are, from time to time, seriously
28 impaired by either administrative oversights and delays by the United States
29 Office of Grants Management or by the processes of federal fiscal year
30 conversion. It is further found and determined that such delays in the proper
31 preparation and transmittal of federal grant award authorizations and letter
32 of credit instruments have created unnecessary hardships on the providers of
33 services and the needy citizens of this state. Therefore, upon certification
34 of the pending availability of federal funding by the ~~Director~~ Secretary of
35 the Department of Human Services, the Chief Fiscal Officer of the State may
36 grant temporary advances, the maximum amount not to exceed five million

1 dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the
2 appropriate account of the Department of Human Services so affected by such
3 delays.

4
5 SECTION 5085. Arkansas Code § 19-7-705 is amended to read as follows:
6 19-7-705. Use of funds.

7 The ~~Director~~ Secretary of the Department of Human Services is
8 authorized to use funds earned through service fees, audit settlements, or
9 federal program settlements for operation of the Title XX service program.
10 Any unanticipated federal funding received under this provision will be
11 handled in accordance with the terms of the Miscellaneous Federal Grant Act,
12 § 19-7-501 et seq.

13
14 SECTION 5086. Arkansas Code § 19-7-706(a)(1), concerning the transfer
15 of funds and appropriations, is amended to read as follows:

16 (a)(1) The ~~Director~~ Secretary of the Department of Human Services, in
17 accordance with rules established by the Chief Fiscal Officer of the State,
18 shall have the authority to transfer funds and appropriations from the
19 appropriate division of the Department of Human Services to the various
20 agencies of the department which receive allotments of Title XX funds. These
21 transfers shall be limited to the allotment of funds available to each agency
22 within the department.

23
24 SECTION 5087. Arkansas Code § 19-7-706(b), concerning the transfer of
25 funds and appropriations, is amended to read as follows:

26 (b) The Chief Fiscal Officer of the State and the ~~director~~ secretary
27 shall cooperate to establish such fund accounts for deposit and disbursement
28 of federal and local Title XX funds as are necessary for the orderly
29 operation of a Title XX services program. The Chief Fiscal Officer of the
30 State and the ~~director~~ secretary shall establish procedures for the transfers
31 of funds necessary to make reimbursement to providers or to agency fund
32 accounts in payment for eligible services. These procedures will include
33 provision for use of state matching funds where appropriated by law.

34
35 SECTION 5088. Arkansas Code § 20-3-104(b), concerning the creation of
36 the Achieving a Better Life Experience Program Trust, is amended to read as

1 follows:

2 (b) The cotrustees of the trust shall be the ~~Director~~ Secretary of the
3 Department of Human Services, the Director of Arkansas Rehabilitation
4 Services, and the Treasurer of State.

5

6 SECTION 5089. Arkansas Code § 20-3-105(a)(1) and (2), concerning the
7 administration, authority, and powers of the Achieving a Better Life
8 Experience Program Committee, are amended to read as follows:

9 (1) The ~~Director~~ Secretary of the Department of Human Services,
10 or his or her designee;

11 (2) The Director of Arkansas Rehabilitation Services of the
12 ~~Department of Career Education~~ Division of Workforce Services, or his or her
13 designee; and

14

15 SECTION 5090. Arkansas Code § 20-9-221(b)(1) and (2), concerning
16 confidential information received by the Department of Health, are amended to
17 read as follows:

18 (b)(1) However, in the case of a specific written request by the
19 deputy director of the appropriate division as determined by the ~~Director~~
20 Secretary of the Department of Human Services for information concerning a
21 certain nursing home, information obtained during recent inspections of the
22 home may be supplied in writing to the deputy director.

23 (2) This exception applies only to homes providing care for
24 recipients of public welfare and is not to be construed as permitting the
25 exchange of such information on all homes in the state but is specifically
26 limited to those for which the deputy director of the appropriate division as
27 determined by the ~~director~~ secretary has specific complaints.

28

29 SECTION 5091. Arkansas Code § 20-10-101(6), concerning the definition
30 of "director" under the laws governing long term care facilities and
31 services, is repealed.

32 ~~(6) "Director" means the Director of the Department of Human~~
33 ~~Services;~~

34

35 SECTION 5092. Arkansas Code § 20-10-101(7), concerning the definition
36 of "division" under the laws governing long term care facilities and

1 services, is amended to read as follows:

2 (7) "Division" means the appropriate division as determined by
3 the ~~Director~~ Secretary of the Department of Human Services;

4
5 SECTION 5093. Arkansas Code § 20-10-202 is amended to read as follows:
6 20-10-202. Creation.

7 There is created an Office of Long-Term Care within the appropriate
8 division as determined by the ~~Director~~ Secretary of the Department of Human
9 Services. The head of the office shall be appointed by the ~~director~~ Secretary
10 of the Department of Human Services.

11
12 SECTION 5094. Arkansas Code § 20-10-204(b)(2)(D), concerning notice of
13 violation for a long-term care facility, is amended to read as follows:

14 (D) Amount of civil penalty or other administrative
15 remedy, if any, imposed by the ~~Director~~ Secretary of the Department of Human
16 Services; and

17
18 SECTION 5095. Arkansas Code § 20-10-207(a), concerning the
19 notification to media of violations by a long-term care facility, is amended
20 to read as follows:

21 (a) When the Office of Long-Term Care's appropriate division, as
22 determined by the ~~Director~~ Secretary of the Department of Human Services,
23 finds, upon inspection and investigation, that any nursing home or
24 residential care facility has committed two (2) violations constituting Class
25 A or Class B violations as ~~defined set out~~ in § 20-10-205 during any twelve-
26 month period, the office shall notify the various news media within the
27 county wherein the nursing home or residential care facility is located and
28 shall advise the media that a complete record of the inspection and
29 investigation will be available for public inspection at the office.

30
31 SECTION 5096. Arkansas Code § 20-10-208(a) and (b), concerning
32 hearings of the Department of Human Services, are amended to read as follows:

33 (a)(1) A licensee may contest an assessment of a civil penalty or any
34 administrative remedy imposed by the Office of Long-Term Care by sending a
35 written request for a hearing to the ~~Director~~ Secretary of the Department of
36 Human Services.

1 (2) Requests for hearings shall be received by the ~~Director~~
2 Secretary of the Department of Human Services within sixty (60) days after
3 receipt by the licensee of the notice of violation and the assessment of any
4 civil penalty or any administrative remedy imposed by the office.

5 (b)(1) The ~~Director~~ Secretary of the Department of Human Services
6 shall assign the appeal to a fair and impartial hearing officer who shall not
7 be a full-time employee of the Department of Human Services.

8 (2) The hearing officer shall preside over the hearing and make
9 findings of fact and conclusions of law in the form of a recommendation to
10 the ~~Director~~ Secretary of the Department of Human Services.

11 (3) The ~~Director~~ Secretary of the Department of Human Services
12 shall review any recommendation and make the final decision. He or she:

13 (A) May approve the recommendation; or

14 (B) May for good cause:

15 (i) Modify the recommendation in whole or in part;

16 or

17 (ii)(a) Remand the recommendation for further
18 proceedings as directed by him or her.

19 (b) If the recommendation is remanded, the
20 hearing officer shall conduct further proceedings as directed by the ~~Director~~
21 Secretary of the Department of Human Services and shall submit an amended
22 recommendation to the ~~Director~~ Secretary of the Department of Human Services.

23 (4) If the ~~Director~~ Secretary of the Department of Human
24 Services modifies a recommendation, in whole or in part, or if the ~~Director~~
25 Secretary of the Department of Human Services remands the decision, he or she
26 shall state in writing at the time of the remand or modification all grounds
27 for the remand or modification, including statutory, regulatory, factual, or
28 other grounds.

29 (5) The modification or approval of a recommendation by the
30 ~~Director~~ Secretary of the Department of Human Services shall be the final
31 agency action as provided by the Arkansas Administrative Procedure Act, § 25-
32 15-201 et seq.

33
34 SECTION 5097. Arkansas Code § 20-10-208(c)(3), concerning hearings of
35 the Department of Human Services, is amended to read as follows:

36 (3) Unless the ~~Director~~ Secretary of the Department of Human

1 Services acts on the recommendation of the hearing officer within sixty (60)
2 days of receipt of the recommendation, the recommendation of the hearing
3 officer shall be final.

4
5 SECTION 5098. Arkansas Code § 20-10-208(d), concerning hearings of the
6 Department of Human Services, is amended to read as follows:

7 (d) Except to the extent that it is inconsistent with federal law or
8 regulation, a written request for a hearing shall stay until denied by the
9 ~~Director~~ Secretary of the Department of Human Services any enforcement action
10 imposed by the office pending the hearing and the final decision of the
11 ~~Director~~ Secretary of the Department of Human Services.

12
13 SECTION 5099. Arkansas Code § 20-10-209 is amended to read as follows:
14 20-10-209. Disposition of funds.

15 (a)(1) There is established on the books of the Treasurer of State,
16 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
17 be known as the "Long-Term Care Trust Fund".

18 (2) The fund shall consist of all moneys and interest received
19 from the imposition of civil penalties levied by the state on long-term care
20 facilities found to be out of compliance with the requirements of federal or
21 state law or regulations, there to be administered by the ~~Director~~ Secretary
22 of the Department of Human Services solely for the protection of the health
23 or property of residents of long-term care facilities, including, but not
24 limited to, the payment for the costs of relocation of residents to other
25 facilities, maintenance and operation of a facility pending correction of
26 deficiencies or closure, and reimbursement of residents for personal funds
27 lost.

28 (b) Funds from the Long-Term Care Trust Fund may also be administered
29 by the ~~Director~~ Secretary of the Department of Human Services for programs or
30 uses that, in the determination of the Director of the Office of Long-Term
31 Care, enhance the quality of life for long-term care facility residents
32 through the adoption of principles and building designs established by the
33 Eden Alternative, Inc. or Green House Project programs or other means.

34
35 SECTION 5100. Arkansas Code § 20-10-905(d), concerning a petition for
36 receivership, is amended to read as follows:

1 (d) The complaint and notice of hearing shall be served on the owner
2 and administrator or licensee of the facility. In cases when the department
3 is not the plaintiff in the action, a copy of the complaint and notice shall
4 be forwarded by mail to the ~~Director~~ Secretary of the Department of Human
5 Services by the plaintiff.

6
7 SECTION 5101. Arkansas Code § 20-10-916(b), concerning the Long-Term
8 Care Facility Receivership Fund Account, is amended to read as follows:

9 (b) The fund account established in this section shall be administered
10 and disbursed under the direction of the ~~Director~~ Secretary of the Department
11 of Human Services for the purpose of paying the expenses of receivers
12 appointed under this subchapter.

13
14 SECTION 5102. Arkansas Code § 20-10-1004(c)(1), concerning prohibiting
15 new admissions to long-term care facilities, hearings, and appeals, is
16 amended to read as follows:

17 (c)(1) The facility may request an immediate hearing by written
18 request to the ~~Director~~ Secretary of the Department of Human Services.

19
20 SECTION 5103. Arkansas Code § 20-10-1409(b)(1), concerning the
21 staffing standards of the Office of Long-Term Care, is amended to read as
22 follows:

23 (b)(1) If the ~~Director~~ Secretary of the Department of Human Services
24 determines that the reimbursement methodology or available funding is
25 insufficient or unable to pay for the minimum staffing standards under § 20-
26 10-1403, the office, by regulation, may modify the requirements of § 20-10-
27 1403 to ensure minimum staffing funds.

28
29 SECTION 5104. Arkansas Code § 20-10-1409(c)(1)(A), concerning the
30 staffing standards of the Office of Long-Term Care, is amended to read as
31 follows:

32 (c)(1)(A) If the Director of the Office of Long-Term Care determines
33 that minimum staffing standards should be increased pursuant to subdivision
34 (b)(2) of this section, the Director of the Office of Long-Term Care shall
35 certify the determination and any proposed regulatory increases to minimum
36 staffing standards to the Director of the Division of Medical Services of the

1 Department of Human Services, who shall notify the ~~Director~~ Secretary of the
2 Department of Human Services and the Legislative Council of the determination
3 and whether sufficient appropriated funds exist to fund the costs to be
4 incurred by the proposed changes to the minimum staffing standards.

5
6 SECTION 5105. Arkansas Code § 20-10-2106 is amended to read as
7 follows:

8 20-10-2106. Rules.

9 The ~~Director~~ Secretary of the Department of Human Services shall adopt
10 rules necessary to implement and administer this subchapter, including
11 without limitation:

12 (1) Procedures for a long-term care facility to notify the
13 Office of Long-Term Care of admissions; and

14 (2)(A) Procedures by which a person in a long-term care facility
15 may decline options counseling for long-term care.

16 (B)(i) These procedures shall include a form promulgated
17 by the Department of Human Services for use by a long-term care facility.

18 (ii) The form shall be limited to one (1) page and
19 shall:

20 (a) Be orally read to the resident or, if
21 applicable, the resident's representative by long-term care facility staff
22 except as provided in this subdivision (2)(B)(ii);

23 (b) List the date;

24 (c) State the name of the resident or, if
25 applicable, the resident's representative;

26 (d) Contain checkboxes indicating that:

27 (1) The office was notified of the
28 admission;

29 (2) The form was not read orally to the
30 resident or resident's representative because the resident lacks decisional
31 capacity and does not have a representative; and

32 (3) The resident or the resident's
33 representative declined the options counseling for long-term care;

34 (e) Contain a statement and an acknowledgment
35 that options counseling for long-term care is an optional program and may be
36 declined by execution of the form;

1 (f) Be signed by the resident or, if
2 applicable, the resident's representative; and

3 (g) Be retained by the long-term care facility
4 in the resident's admission file for eighteen (18) months or until the next
5 standard survey, whichever is longer.

6
7 SECTION 5106. Arkansas Code § 20-22-404 is amended to read as follows:
8 20-22-404. Rules and regulations adopted by Office of Long-Term Care.

9 The Office of Long-Term Care of the appropriate division as determined
10 by the ~~Director~~ Secretary of the Department of Human Services may adopt
11 appropriate rules and regulations to carry out the purpose and intent of this
12 subchapter.

13
14 SECTION 5107. Arkansas Code § 20-46-105(d), concerning reports on
15 emotionally disturbed youth by the Department of Human Services, is amended
16 to read as follows:

17 (d) The deputy director of the appropriate division of the department
18 as determined by the ~~Director~~ Secretary of the Department of Human Services
19 shall certify by his or her signature that the information contained in these
20 reports is correct to the best of his or her knowledge.

21
22 SECTION 5108. Arkansas Code § 20-46-301(a)-(c), concerning the powers
23 and duties of the Division of Aging, Adult, and Behavioral Health Services of
24 the Department of Human Services, are amended to read as follows:

25 (a) The Department of Human Services shall have the authority and
26 power to create and maintain the Division of Aging, Adult, and Behavioral
27 Health Services of the Department of Human Services and to provide services
28 for community mental health clinics and centers, which shall be administered
29 through such divisions, offices, sections, or units of the Department Human
30 Services as may be determined by the ~~Director~~ Secretary of the Department of
31 Human Services.

32 (b) The Department of Human Services shall have the authority to
33 establish or assist in the establishment and direction of those mental health
34 clinics and centers in local and regional areas of the state which shall be
35 operated under such divisions, offices, sections, or units of the Department
36 Human Services as may be determined by the ~~director~~ secretary.

1 (c) The Department of Human Services, in cooperation with the Building
2 Authority Division ~~of the Department of Finance and Administration~~, may sell,
3 donate, lease on a short-term or long-term basis, or assign the use of any
4 property and equipment owned by the Department of Human Services, including
5 real property, furniture, fixtures, and office equipment and supplies, to
6 those community mental health clinics and centers to assist them in the
7 advancement of mental health in the state.

8
9 SECTION 5109. Arkansas Code § 20-46-301(e)(2), concerning the powers
10 and duties of the Division of Aging, Adult, and Behavioral Health Services of
11 the Department of Human Services, are amended to read as follows:

12 (2) The ~~director~~ secretary shall have the authority to negotiate
13 an employee leasing arrangement with the private nonprofit community mental
14 health center as an ongoing contract to perform mental health services for
15 the center. The arrangement shall provide, at a minimum:

16 (A) For reimbursement for all leased Division of Aging,
17 Adult, and Behavioral Health Services of the Department of Human Services
18 employee financial obligations with respect to wages, employment taxes, and
19 employee benefits of each employee providing services for the center and for
20 reimbursement of administrative costs associated with the leased employees;

21 (B) That all leased employees are covered by workers'
22 compensation insurance provided in conformance with laws of the state and
23 which may be provided by either the Department of Human Services or the
24 center;

25 (C) That all leased employees shall be limited to
26 providing services to clients or in support of clients which are consistent
27 with the goals and objectives of the Division of Aging, Adult, and Behavioral
28 Health Services of the Department of Human Services and the Department of
29 Human Services;

30 (D) That the Division of Aging, Adult, and Behavioral
31 Health Services of the Department of Human Services and the Department of
32 Human Services shall not be vicariously liable for the liabilities of the
33 center, whether contractual or otherwise;

34 (E) That the center shall provide liability insurance for
35 the employees and indemnify the state for any actions of the employees; and

36 (F) That the leasing arrangement shall not be effective

1 for a period of time to exceed each state fiscal biennium and that payment
2 and performance obligations of the arrangement are subject to the
3 availability and appropriation of funds for the employees' salaries and other
4 benefits.

5

6 SECTION 5110. The introductory language of Arkansas Code § 20-46-303,
7 concerning the standards for community mental health clinics, is amended to
8 read as follows:

9 In approving or rejecting community mental health clinics for the
10 purpose of mental health services, the ~~Director~~ Secretary of the Department
11 of Human Services shall consider the following factors:

12

13 SECTION 5111. The introductory language of Arkansas Code § 20-46-309,
14 concerning the composition and qualifications of staff and boards at
15 community mental health centers, is amended to read as follows:

16 The ~~Director~~ Secretary of the Department of Human Services shall
17 require the following as to the composition and professional qualifications
18 of the clinic or center staff and control and direction of the clinic or
19 center:

20

21 SECTION 5112. Arkansas Code § 20-46-310 is amended to read as follows:

22 20-46-310. Duty to provide screenings and evaluation studies.

23 Mental health centers in this state, whether local or regional, which
24 have been approved by the ~~Director~~ Secretary of the Department of Human
25 Services shall provide, upon request of the courts of record in this state,
26 screening and evaluation studies of such persons as shall be referred to the
27 mental health center or clinic by the court.

28

29 SECTION 5113. Arkansas Code § 20-46-601(b), concerning the tracking
30 and treatment of persons suffering from mental illness and substance abuse,
31 is amended to read as follows:

32 (b) For purposes of this section, "client" means a person diagnosed to
33 be addicted to drugs or alcohol who has been committed to the custody of the
34 ~~Director~~ Secretary of the Department of Human Services pursuant to § 5-2-314
35 as a result of acquittal, on the ground of mental disease or defect, of an
36 offense involving bodily injury to another person or serious risk of such

1 injury.

2

3 SECTION 5114. Arkansas Code § 20-46-702(a)(3), concerning the
4 definition of "director" under the laws governing the Department of Human
5 Services, is repealed.

6 ~~(3) "Director" means the Director of the Department of Human~~
7 ~~Services or his or her designee;~~

8

9 SECTION 5115. Arkansas Code § 20-46-703(d), concerning surveys of
10 program providers for the Department of Human Services, is amended to read as
11 follows:

12 (d) The ~~Director~~ Secretary of the Department of Human Services shall
13 ensure that the department complies with the Arkansas Administrative
14 Procedure Act, § 25-15-201 et seq., and with § 20-77-107 in regard to all
15 surveys of program providers.

16

17 SECTION 5116. Arkansas Code § 20-47-505(a)(2), concerning the Child
18 and Adolescent Service System Program Coordinating Council, is amended to
19 read as follows:

20 (2) The council shall include the following persons to be
21 selected and appointed by the Commissioner of Elementary and Secondary
22 Education and the ~~Director~~ Secretary of the Department of Human Services:

23 (A) At least three (3) parents, parent surrogates, or
24 family members of a child or children with emotional disturbance;

25 (B) A member of an ethnic minority;

26 (C) A child advocate;

27 (D) Child and Adolescent Service System Program
28 coordinators from each of the certified community mental health centers;

29 (E)(i) One (1) or more representatives from specific
30 divisions or agencies in the Department of Human Services and the Department
31 of Education.

32 (ii) Each representative shall have official duties
33 related to the delivery of behavioral health services for children and
34 adolescents with emotional disturbances.

35 (iii) Specific designations of membership of the
36 council shall be determined through interdepartmental and intradepartmental

1 agreements that will be renewed on an annual basis; and

2 (F)(i) At least seven (7) representatives from private or
3 public agencies or organizations that are stakeholders in behavioral health
4 services for children and adolescents with emotional disturbances.

5 (ii) The commissioner and the ~~director~~ secretary
6 shall jointly appoint an appropriate number of stakeholders.

7
8 SECTION 5117. Arkansas Code § 20-47-505(b)(1), concerning the Child
9 and Adolescent Service System Program Coordinating Council, is amended to
10 read as follows:

11 (1) Advise and report to the commissioner and the ~~director~~
12 secretary on matters of policy and programs related to children with
13 emotional disturbances and their families;

14
15 SECTION 5118. Arkansas Code § 20-47-505(b)(6) and (7), concerning the
16 Child and Adolescent Service System Program Coordinating Council, are amended
17 to read as follows:

18 (6) Submit a statewide plan and budget recommendations to the
19 commissioner and the ~~director~~ secretary on or before March 15 of each even-
20 numbered year thereafter preceding the legislative session;

21 (7) Develop and recommend special projects to the commissioner
22 and the ~~director~~ secretary;

23
24 SECTION 5119. Arkansas Code § 20-47-505(b)(10), concerning the Child
25 and Adolescent Service System Program Coordinating Council, is amended to
26 read as follows:

27 (10) Make recommendations for corrective action plans to the
28 commissioner and the ~~director~~ secretary in the event that a regional program
29 planning team does not produce a timely regional plan that meets a plan of
30 care or fails to implement the approved regional plan.

31
32 SECTION 5120. Arkansas Code § 20-47-507(d), concerning staff for the
33 Child and Adolescent Service System Program Coordinating Council, is amended
34 to read as follows:

35 (d) The division's council staff shall provide an annual report
36 summarizing program regional and coordinating council activities, strategic

1 plans, and outcomes to the ~~Director~~ Secretary of the Department of Human
2 Services and the Commissioner of Elementary and Secondary Education each year
3 on or before October 15.

4
5 SECTION 5121. Arkansas Code § 20-48-202(5), concerning the definition
6 of "director" under the Arkansas Intellectual Disabilities Act, is repealed.

7 ~~(5) "Director" means the Director of the Department of Human~~
8 ~~Services;~~

9
10 SECTION 5122. Arkansas Code § 20-48-202(6), concerning the definition
11 of "division" under the Arkansas Intellectual Disabilities Act, is amended to
12 read as follows:

13 (6) "Division" means the Division of Developmental Disabilities
14 Services of the Department of Human Services or the appropriate division as
15 determined by the ~~Director~~ Secretary of the Department of Human Services;

16
17 SECTION 5123. Arkansas Code § 20-48-210 is amended to read as follows:
18 Services.

19 20-48-210. Deputy Director of the Division of Developmental
20 Disabilities Services.

21 (a) There is created the office of the Deputy Director of the Division
22 of Developmental Disabilities Services of the Department of Human Services.
23 The deputy director shall be appointed by ~~and shall serve at the pleasure of~~
24 the Board of Developmental Disabilities Services in consultation with the
25 Secretary of the Department of Human Services.

26 (b) The deputy director shall be a person of proven administrative
27 ability and professional qualifications, preferably holding a Ph.D. or
28 equivalent, but including at least a master's degree in psychology,
29 education, social service, or other field of study approved by the board and
30 shall have at least five (5) years' experience in intellectual disabilities
31 services.

32 (c) The deputy director shall be the ~~executive secretary of the board~~
33 Chair of the Board of Development Disabilities Services and shall maintain an
34 official set of minutes of all board action.

35 (d) The deputy director shall be the executive officer of the Division
36 of Developmental Disabilities Services and shall operate and manage the

1 division, subject to the control of the board and in consultation with the
2 Secretary of the Department of Human Services.

3 (e) The board may delegate to the deputy director any powers of the
4 board upon such terms and for such duration as the board shall specify.

5
6 SECTION 5124. Arkansas Code § 20-64-602(b)(4), concerning the powers
7 and duties of the Division of Aging, Adult, and Behavioral Health Services of
8 the Department of Human Services, is amended to read as follows:

9 (4) Serve in a liaison capacity between the state and local
10 communities and the United States Government with respect to alcohol abuse
11 and drug abuse programs and, subject to the approval of the ~~Director~~
12 Secretary of the Department of Human Services, enter into agreements with and
13 make commitments on behalf of the State of Arkansas to meet requirements for
14 obtaining federal assistance or grants for partially financing alcohol abuse
15 and drug abuse programs in the state;

16
17 SECTION 5125. Arkansas Code § 20-64-602(b)(7), concerning the powers
18 and duties of the Division of Aging, Adult, and Behavioral Health Services of
19 the Department of Human Services, is amended to read as follows:

20 (7) Review, on a continuing basis, existing and proposed state
21 statutes relating to alcohol abuse and drug abuse education, prevention,
22 intervention, treatment rehabilitation, and training and make appropriate
23 recommendations for legislation to the ~~director~~ secretary and the General
24 Assembly;

25
26 SECTION 5126. Arkansas Code § 20-64-602(b)(9), concerning the powers
27 and duties of the Division of Aging, Adult, and Behavioral Health Services of
28 the Department of Human Services, is amended to read as follows:

29 (9) Review those budget items proposed by other state agencies which
30 are intended for alcohol or drug abuse prevention, intervention, treatment,
31 education, rehabilitation, and training services and make recommendations to
32 the ~~director~~ secretary;

33
34 SECTION 5127. Arkansas Code § 20-64-602(b)(15), concerning the powers
35 and duties of the Division of Aging, Adult, and Behavioral Health Services of
36 the Department of Human Services, is amended to read as follows:

1 (15) Prepare an annual report to coincide with appropriate federal
2 reports to be submitted to the advisory council, the ~~director~~ secretary, and
3 the Governor describing activities of the division and the accomplishments
4 and effectiveness of its programs and also prepare special reports as deemed
5 necessary for the advisory council to aid in the fulfillment of its advisory
6 responsibilities;

7
8 SECTION 5128. Arkansas Code § 20-64-602(b)(19), concerning the powers
9 and duties of the Division of Aging, Adult, and Behavioral Health Services of
10 the Department of Human Services, is amended to read as follows:

11 (19) Develop and promulgate standards, rules, and regulations for
12 accrediting, certifying, and licensing alcohol and drug abuse prevention,
13 treatment, and rehabilitation programs and facilities within the state, under
14 the supervision and direction of the ~~director~~ secretary, provided that the
15 standards, rules, and regulations shall not supersede standards, rules, and
16 regulations promulgated by other state agencies for programs or facilities
17 whose primary mission is not alcohol and drug abuse prevention, treatment,
18 and rehabilitation;

19
20 SECTION 5129. Arkansas Code § 20-64-603 is amended to read as follows:

21 20-64-603. ~~Director~~ Secretary of the Department of Human Services –
22 Administration of state plans.

23 The ~~Director~~ Secretary of the Department of Human Services shall be the
24 single state authority and shall have primary responsibility for
25 administering the state plan on alcohol abuse and alcoholism and the state
26 plan on drug abuse prevention.

27
28 SECTION 5130. Arkansas Code § 20-64-1001(a), concerning the Arkansas
29 Drug Director, is amended to read as follows:

30 (a)(1) There is created within the Division of Aging, Adult, and
31 Behavioral Health Services of the Department of Human Services ~~office of the~~
32 ~~Governor~~ a position of Arkansas Drug Director, ~~who shall serve at the~~
33 ~~pleasure of the Governor.~~

34 (2) ~~Effective at 12:01 a.m. on July 1, 2005, the position of~~
35 ~~Arkansas Drug Director is transferred to the Division of Aging, Adult, and~~
36 ~~Behavioral Health Services of the Department of Human Services~~ The Arkansas

1 Drug Director shall be appointed by the Governor, and shall serve at the
2 pleasure of the Governor.

3 (3) The Arkansas Drug Director shall report to the Secretary of
4 the Department of Human Services.

5
6 SECTION 5131. Arkansas Code § 20-64-1002(b)(1), concerning the
7 Arkansas Alcohol and Drug Abuse Coordinating Council, is amended to read as
8 follows:

9 (1) Thirteen (13) members of the coordinating council shall be
10 administrative officers of the following agencies, or their appropriate
11 designees, confirmed by gubernatorial appointment:

12 (A) The Arkansas Drug Director, who shall serve as Chair
13 of the Arkansas Alcohol and Drug Abuse Coordinating Council;

14 (B) The Director of the Division of Aging, Adult, and
15 Behavioral Health Services of the Department of Human Services;

16 (C) The Director of the ~~Department~~ Division of Arkansas
17 State Police;

18 (D) The Commissioner of Elementary and Secondary
19 Education;

20 (E) The Director of the Arkansas Department of
21 Transportation;

22 (F) The Director of the ~~Department~~ Division of Correction;

23 (G) The ~~Director~~ Secretary of the Department of Finance
24 and Administration;

25 (H) The Adjutant General of the Arkansas National Guard;

26 (I) The Attorney General;

27 (J) The ~~Executive~~ Director of the State Crime Laboratory;

28 (K) The Director of the Office of Alcohol Testing of the
29 Department of Health;

30 (L) The Director of the Administrative Office of the
31 Courts; and

32 (M) The Director of the ~~Department~~ Division of Community
33 Correction; and

34
35 SECTION 5132. Arkansas Code § 20-76-211 is amended to read as follows:
36 20-76-211. ~~Director's office~~ Secretary's Office of Department of Human

1 Services – Client Specific Emergency Services Revolving Fund Paying Account.

2 (a) ~~The Director's office~~ Secretary's Office the Department of Human
3 Services shall establish and maintain as a cash fund account the Client
4 Specific Emergency Services Revolving Fund Paying Account consisting of
5 federal grants, aids, cash donations, reimbursements, and state general
6 revenue, not to exceed a daily balance of ten thousand dollars (\$10,000), for
7 delivery of immediate care, short-term, or emergency services to eligible
8 clients.

9 (b) The account shall be established and maintained in accordance with
10 procedures established by the Chief Fiscal Officer of the State for cash
11 funds and shall be administered under the direction of the ~~Director~~ Secretary
12 of the Department of Human Services.

13

14 SECTION 5133. Arkansas Code § 20-76-422 is repealed.

15 ~~20-76-422. Aged, blind, and disabled — Conversion from state to~~
16 ~~federal program.~~

17 ~~(a) The Director of the Department of Human Services is authorized to~~
18 ~~enter into agreements with the United States Secretary of Health and Human~~
19 ~~Services and other state agencies to effectuate an orderly and timely~~
20 ~~conversion from state to federal programs of cash assistance for the aged,~~
21 ~~blind, and disabled, as provided in Pub. L. No. 92-603, Title III, in such a~~
22 ~~manner as would be expedient to both the United States Government and the~~
23 ~~State of Arkansas.~~

24 ~~(b) The agreements may include the transfer of state funds to, and the~~
25 ~~receipt of federal funds from, the secretary for the purposes of~~
26 ~~supplementing the federal benefits to be paid to eligible persons, to~~
27 ~~facilitate disability, blindness, and Medicaid eligibility determinations on~~
28 ~~behalf of the state by the secretary, and to enable the state to perform~~
29 ~~required administrative or program functions on behalf of the secretary under~~
30 ~~which the secretary will advance federal funds for the payment of full-time~~
31 ~~and part-time employees and their related supportive expenses as deemed~~
32 ~~necessary by both the director and the secretary to carry out the conversion~~
33 ~~plan.~~

34

35 SECTION 5134. Arkansas Code § 20-77-102(d), concerning the program for
36 long-term care facility care, is amended to read as follows:

1 (d) The ~~Director~~ Secretary of the Department of Human Services, with
2 the approval of the Governor and after obtaining the advice of the
3 Legislative Council, may provide for an expanded comprehensive program of
4 long-term care facility care for residents of this state if he or she deems
5 the program advisable or appropriate in order to take advantage of expanded
6 federal programs or participation therein, within the limitation of funds
7 that may be available to the department therefor.

8
9 SECTION 5135. Arkansas Code § 20-77-107(b)-(d), concerning the rules
10 and regulations for the program for indigent medical care, are amended to
11 read as follows:

12 (b) The ~~Director~~ Secretary of the Department of Human Services is
13 further authorized to enter into separate agreements with the University of
14 Arkansas for Medical Sciences and private institutions in order to provide
15 maximum medical care for the indigent persons of this state.

16 (c) The ~~director~~ secretary may enter into agreements with private or
17 public entities to assist in the enforcement of rules and regulations of an
18 indigent medical program, including:

19 (1) Utilization review; and

20 (2) Professional review of providers participating in the
21 program.

22 (d)(1) The ~~director~~ secretary shall ensure that any entity with whom
23 the department contracts to assist in the enforcement of rules and
24 regulations of an indigent medical program will fulfill its duties in
25 accordance with state and federal law and regulations.

26 (2) The ~~director~~ secretary may terminate any contractor who
27 excessively burdens the State of Arkansas with the defense of appeals of
28 sanctions or citations of deficiencies that are resolved in favor of the
29 program provider.

30
31 SECTION 5136. Arkansas Code § 20-77-107(f), concerning the rules and
32 regulations for the program for indigent medical care, is amended to read as
33 follows:

34 (f) The ~~director~~ secretary shall ensure that the professional review
35 of providers, except long-term care facilities and their reviewers,
36 participating in the program comply with the following:

1 (1) The party conducting any professional reviews of providers
2 participating in the program shall be knowledgeable in the specific areas of
3 law and regulations being enforced;

4 (2)(A) Every citation or deficiency cited to a provider shall
5 refer by source and number to the authority upon which the citation or
6 deficiency is based.

7 (B) However, the requirement of subdivision (f)(2)(A) of
8 this section does not limit the department and any entity with whom it
9 contracts in the exercise and application of professional medical judgment in
10 determining when and under what circumstances care is medically necessary;

11 (3) The professional review process shall include an informal
12 dispute resolution process to allow the provider to challenge the citation or
13 deficiency cited or sanction to a person other than the person making the
14 citation as defined by the ~~director~~ secretary;

15 (4) The ~~director~~ secretary shall establish a system to ensure
16 standard and consistent application of sanctions and citation or deficiencies
17 among surveyors in different areas of the state; and

18 (5) The ~~director~~ secretary shall establish a process for program
19 providers to appeal a decision of a reviewer pursuant to the Arkansas
20 Administrative Procedure Act, § 25-15-201 et seq.

21
22 SECTION 5137. Arkansas Code § 20-77-111(a), concerning data reports on
23 the Arkansas Medicaid Program, is amended to read as follows:

24 (a) The ~~Director~~ Secretary of the Department of Human Services shall
25 cause to be prepared a compilation of data on the Arkansas Medicaid Program.

26
27 SECTION 5138. Arkansas Code § 20-77-304(b)(1), concerning the notice
28 of an action or claim, is amended to read as follows:

29 (b)(1) If the recipient, his or her guardian, personal representative,
30 estate, or survivors bring an action against the third party who may be
31 liable for injury, disease, or disability, then notice of institution of the
32 legal proceedings and notice of settlement shall be given the ~~Director~~
33 Secretary of the Department of Human Services.

34
35 SECTION 5139. Arkansas Code § 20-77-402 is amended to read as follows:
36 20-77-402. Continuation of program.

1 (a) The ~~Director~~ Secretary of the Department of Human Services and the
2 deputy director of the appropriate division of the Department of Human
3 Services are authorized to provide for continued coverage of prescription
4 drugs under the Title XIX Medicaid Program for the State of Arkansas.

5 (b) The ~~director~~ secretary and deputy director are authorized to
6 establish necessary program guidelines to control the provision of this
7 service, provided that the guidelines are not in conflict with any federal or
8 state law or regulation.

9
10 SECTION 5140. Arkansas Code § 20-77-403(a) and (b), concerning fees
11 paid to participating pharmacists, are amended to read as follows:

12 (a) The ~~Director~~ Secretary of the Department of Human Services and the
13 deputy director shall pay each participating pharmacist for each prescription
14 filled under this program the pharmacist's usual and customary charge to the
15 general public for the drug.

16 (b) However, until existing federal regulations limiting reimbursement
17 for a drug to the lower of the pharmacist's usual and customary charge, or
18 cost of the drug plus a reasonable dispensing fee, are modified or declared
19 invalid by a court, the ~~director~~ secretary and the deputy director shall pay
20 for each prescription, the lower of:

21 (1) The pharmacist's usual and customary charge to the general
22 public for the drug; or

23 (2) The pharmacist's cost of the drug plus a dispensing fee. The
24 fee will be adjusted annually on July 1 of each year by the percentage change
25 in the Consumer Price Index, except that on any July 1 immediately following
26 a subsequent cost of dispensing survey conducted by the appropriate division
27 of the Department of Human Services, the fee will be adjusted using the
28 formula used by the ~~director~~ secretary and the deputy director to determine
29 the July 1, 1980, fee or other such formula as may be developed subsequently
30 by the ~~director~~ secretary and the deputy director with the approval of the
31 Legislative Council.

32
33 SECTION 5141. Arkansas Code § 20-77-404 is amended to read as follows:
34 20-77-404. Approval from United States Department of Health and Human
35 Services.

36 (a) The ~~Director~~ Secretary of the Department of Human Services and the

1 deputy director are directed to seek approval by the United States Department
2 of Health and Human Services of the provisions of this subchapter so as to
3 qualify this program for maximum contributions from the United States
4 Department of Health and Human Services under its regulations until those
5 regulations are declared invalid or modified.

6 (b) If, and to the extent that, the United States Department of Health
7 and Human Services hereafter makes any valid rule that any provision of this
8 subchapter disqualifies this program for the maximum contribution, the
9 ~~director~~ secretary and the deputy director are directed to comply with any
10 ruling to the extent necessary to qualify for the maximum contribution.

11
12 SECTION 5142. Arkansas Code § 20-77-710 is amended to read as follows:

13 20-77-710. Annual report of cotrustees of Special Needs Trust
14 Revolving Fund.

15 The cotrustees of the Special Needs Trust Revolving Fund shall prepare
16 and transmit annually a report of their activities to the ~~Director~~ Secretary
17 of the Department of Human Services. This report shall include the amount of
18 benefits paid and a statistical summary of claims and benefits made and
19 denied.

20
21 SECTION 5143. Arkansas Code § 20-77-902(7)(B)(iii)(b), concerning
22 liability for certain acts within the State of Arkansas, is amended to read
23 as follows:

24 (b) In the case of an entity that is a
25 Medicaid provider as defined in § 20-77-901, the person discloses, in the
26 form and manner as the ~~Director~~ Secretary of the Department of Human Services
27 requires, to the entity and upon request to the ~~director~~ secretary the amount
28 received from each vendor with respect to purchases made by or on behalf of
29 the entity; or

30
31 SECTION 5144. Arkansas Code § 20-77-902(7)(B)(iv), concerning
32 liability for certain acts within the State of Arkansas, is amended to read
33 as follows:

34 (iv) Any payment practice specified by the ~~director~~
35 secretary promulgated pursuant to applicable federal or state law;

36

1 SECTION 5145. Arkansas Code § 20-77-910 is amended to read as follows:
2 20-77-910. Suspension of violators.

3 The ~~Director~~ Secretary of the Department of Human Services may suspend
4 or revoke the provider agreement between the Department of Human Services and
5 the person in the event that the person is found guilty of violating the
6 terms of this subchapter.

7
8 SECTION 5146. Arkansas Code § 20-77-1302(b), concerning the
9 legislative intent and purpose to combat and prevent healthcare provider
10 fraud and abuse, is amended to read as follows:

11 (b) The General Assembly intends to provide the ~~Director~~ Secretary of
12 the Department of Human Services with the ability, authority, and resources
13 to pursue administrative sanctions and liquidated damages to protect the
14 fiscal and programmatic integrity of the medical assistance programs from
15 healthcare providers and other persons who engage in fraud,
16 misrepresentation, abuse, or other ill practices, as set forth in this
17 subchapter in order to obtain payments to which these healthcare providers or
18 persons are not entitled.

19
20 SECTION 5147. Arkansas Code § 20-77-1303(3), concerning the definition
21 of "Department Director" under Medical Assistance Programs Integrity Law, is
22 repealed.

23 ~~(3) "Department director" or "director" means the Director of~~
24 ~~the Department of Human Services;~~

25
26 SECTION 5148. Arkansas Code § 20-77-1304(a)(1), concerning claims
27 reviews and administrative sanctions, is amended to read as follows:

28 (a)(1) Pursuant to rules and regulations promulgated in accordance
29 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the
30 ~~Director~~ Secretary of the Department of Human Services shall establish a
31 process to review a claim made by a healthcare provider to determine whether
32 the claim should be or should have been paid as required by federal or state
33 law or rule.

34
35 SECTION 5149. Arkansas Code § 20-77-1304(a)(3), concerning claims
36 reviews and administrative sanctions, is amended to read as follows:

1 (3) The ~~director~~ secretary may withhold payment to a healthcare
2 provider during claims review if necessary to protect the fiscal integrity of
3 the medical assistance programs, provided that the healthcare provider has an
4 opportunity for a hearing within sixty (60) days of the date payment is
5 withheld.

6
7 SECTION 5150. Arkansas Code § 20-77-1304(b)(1), concerning claims
8 reviews and administrative sanctions, is amended to read as follows:

9 (b)(1) The ~~director~~ secretary may establish various types of
10 administrative sanctions pursuant to rules and regulations promulgated in
11 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
12 seq., which may be imposed on a healthcare provider or other person who
13 violates any provision of this subchapter or any other applicable federal or
14 state law or rule related to the medical assistance programs.

15
16 SECTION 5151. Arkansas Code § 20-77-1304(c)(1), concerning claims
17 reviews and administrative sanctions, is amended to read as follows:

18 (c)(1) The Department of Human Services shall conduct a hearing in
19 compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et
20 seq., at the request of a person who wishes to contest an administrative
21 sanction imposed on him or her by the ~~director~~ secretary.

22
23 SECTION 5152. Arkansas Code § 20-77-1305 is amended to read as
24 follows:

25 20-77-1305. Settlement.

26 The ~~Director~~ Secretary of the Department of Human Services may agree to
27 settle an administrative sanction. The terms of the settlement shall be
28 reduced to writing and signed by the parties to the agreement. The terms of
29 the settlement shall be a public record. The settlement shall include the
30 method and means of payment for recovery, including, but not limited to,
31 adequate security for the full amount of the settlement.

32
33 SECTION 5153. Arkansas Code § 20-77-2510(d)(1), concerning the
34 Department of Human Services' consultation with the Office of Medicaid
35 Inspector General, is amended to read as follows:

36 (d)(1) ~~No later than December 1, 2013, the~~ The Director Secretary of

1 the Department of Human Services in conjunction with the office shall prepare
2 and submit an interim report to the Governor and the cochairs of the
3 Legislative Council on the implementation of the initiatives under this
4 section annually.

5
6 SECTION 5154. Arkansas Code § 20-78-215(a)(2), concerning federal
7 funding for background checks for employees of child care facilities, is
8 amended to read as follows:

9 (2) Specifically, regulations promulgated by the ~~Director~~
10 Secretary of the Department of Human Services pursuant to this section may
11 address federally mandated requirements for employment history and background
12 checks and nationwide criminal record checks, as may be necessary in
13 accordance with the provisions of Pub. L. No. 92-544, for all operators,
14 staff, or employees, or prospective operators, staff, or employees of the
15 child care facilities or programs as defined in this section.

16
17 SECTION 5155. Arkansas Code § 20-78-215(b), concerning federal funding
18 for background checks for employees of child care facilities, is amended to
19 read as follows:

20 (b) In order to enable the State of Arkansas to fully participate and
21 share in federal funds made available to the states through the Social
22 Services Block Grant Act, or otherwise for the purposes of reducing and
23 eliminating the incidence of child sexual abuse in child care facilities, as
24 defined in § 20-78-202(2), the ~~director~~ secretary is authorized at his or her
25 discretion to promulgate, pursuant to the Arkansas Administrative Procedure
26 Act, § 25-15-201 et seq., rules and regulations implementing such federal
27 requirements as may be placed upon the states to qualify for the funds.

28
29 SECTION 5156. Arkansas Code § 23-61-803(c)(5), concerning the creation
30 of the Arkansas Health Insurance Marketplace, is amended to read as follows:

31 (5) The ~~Director~~ Secretary of the Department of Human Services
32 or his or her designee as an ex officio nonvoting member.

33
34 SECTION 5157. Arkansas Code § 25-10-101 is repealed.

35 ~~25-10-101. Creation Appointment of director.~~

36 ~~(a) There is created a Department of Human Services.~~

1 ~~(b)(1) The executive head of the department shall be the Director of~~
2 ~~the Department of Human Services.~~

3 ~~(2) The director shall be appointed by the Governor with the~~
4 ~~consent of the Senate and shall serve at the pleasure of the Governor.~~

5
6 SECTION 5158. Arkansas Code § 25-10-102 is amended to read as follows:
7 25-10-102. Organization generally.

8 (a) The Department of Human Services is a cabinet-level department and
9 shall consist of and be operated under an integrated service system
10 consisting of the following programmatic divisions with responsibilities and
11 programs assigned to them as determined by the ~~Director~~ Secretary of the
12 Department of Human Services and those state entities transferred to the
13 Department of Human Services pursuant to a cabinet-level transfer under § 25-
14 43-902:

15 (1) The Division of Aging, Adult, and Behavioral Health Services
16 of the Department of Human Services;

17 (2) The Division of Medical Services;

18 (3) The Division of Developmental Disabilities Services;

19 (4) The Division of County Operations;

20 (5) The Division of Youth Services;

21 ~~(6) The Division of State Services for the Blind;~~

22 ~~(7) The Division of Children and Family Services;~~

23 ~~(8)(7) The Division of Child Care and Early Childhood Education;~~

24 and

25 ~~(9)(8) The Division of Provider Services and Quality Assurance.~~

26 (b) The ~~Director's~~ Secretary's Office of the Department of Human
27 Services shall consist of:

28 (1) The ~~Director~~ Secretary of the Department of Human Services
29 and his or her personal staff; and

30 (2) Shared business services operating across the divisions,
31 offices, sections, and units of the department, including without limitation
32 business operations and administrative functions determined necessary by the
33 ~~director~~ secretary.

34 (c)(1)(A) Each division of the department shall be under the
35 direction, control, and supervision of the ~~director~~ secretary.

36 (B) From time to time, the ~~director~~ secretary may transfer

1 or assign existing duties or new programs or duties of the department to
2 offices, sections, or units as he or she deems necessary for the efficient
3 and necessary operation of the department.

4 (C) Before implementation of any reorganization, the
5 ~~director~~ secretary shall obtain the advice of the House Committee on State
6 Agencies and Governmental Affairs and the Senate Committee on State Agencies
7 and Governmental Affairs.

8 (2)(A) However, the state institutions and the operation of
9 state institutional programs under the jurisdiction of the Board of
10 Developmental Disabilities Services and the Department of Human Services
11 State Institutional System Board shall be under the control of their
12 respective boards, as provided by law.

13 (B) The ~~boards~~ Board of Developmental Disabilities
14 Services and the Department of Human Services State Institutional System
15 Board shall perform their respective functions and duties under the general
16 guidelines and standards promulgated by the ~~director~~ secretary.

17 ~~(3) The Division of State Services for the Blind and the Board~~
18 ~~of the Division of State Services for the Blind shall continue to function~~
19 ~~within the department with the powers prescribed in § 25-10-201 et seq.~~

20
21 SECTION 5159. Arkansas Code § 25-10-104(b)-(d), concerning the Board
22 of Developmental Disabilities Services, is amended to read as follows:

23 (b) The Board of Developmental Disabilities Services shall name the
24 administrative head or director of each of the respective institutions under
25 the board's jurisdiction with the concurrence of the ~~Director~~ Secretary of
26 the Department of Human Services.

27 (c) Under a type 1 transfer of the Board of Developmental Disabilities
28 Services, and the institutions under its management and control, to the
29 Department of Human Services, the board shall have control of all budgeting,
30 purchasing, and related management functions in accordance with the
31 limitations and restrictions thereon provided in this act and by other laws
32 applicable thereto.

33 (d)(1) It is the intent of this section that the administration of the
34 human development centers located at ~~Alexander~~, Arkadelphia, Booneville,
35 Conway, Jonesboro, and the Southeast Human Development Center at Warren, and
36 the various facilities and services thereof, shall be under the control of

1 the Board of Developmental Disabilities Services, as provided and intended by
2 ~~the~~ Arkansas Constitution, Amendment 33, but the board shall exercise its
3 control in accordance with the general guidelines, policies, and regulations
4 of the Department of Human Services governing divisions, offices, sections,
5 or units within the department with respect to budgets, personnel and
6 personnel policies, records, purchasing, bookkeeping, and other
7 administrative procedures prescribed by the ~~director~~ secretary.

8 (2) It is the intent of this act that the Board of Developmental
9 Disabilities Services shall devote its time and resources to the operation
10 and management of the state-owned and controlled institutional programs of
11 the various state human development centers and that the establishment and
12 operation of community programs, workshops, and other services for
13 individuals with developmental disabilities or individuals with intellectual
14 disabilities in this state and other regional and community services
15 benefiting individuals with developmental disabilities or individuals with
16 intellectual disabilities shall be administered by the Department of Human
17 Services through the divisions, offices, sections, or units of the department
18 as determined by the ~~director of the department~~ secretary.

19
20 SECTION 5160. Arkansas Code § 25-10-106 is amended to read as follows:

21 25-10-106. Division heads and other personnel.

22 (a)(1) The ~~Director~~ Secretary of the Department of Human Services,
23 with the advice and consent of the Governor, shall ~~appoint~~ employ the heads
24 of the various divisions of the Department of Human Services.

25 (2) The heads of the respective offices, sections, or units of
26 the department and all other personnel of the department shall be employed by
27 and serve at the pleasure of the ~~Director~~ Secretary of the Department of
28 Human Services.

29 (b)(1) However, the directors of the various institutions and programs
30 under the jurisdiction and control of the Department of Human Services State
31 Institutional System Board and the Board of Developmental Disabilities
32 Services within the Department of Human Services shall be named by the
33 ~~respective boards~~ Department of Human Services State Institutional System
34 Board and the Board of Developmental Disabilities Services, with the
35 concurrence of the ~~Director~~ Secretary of the Department of Human Services.

36 (2) All personnel employed in the institutions under the

1 management and control of ~~those boards~~ the Department of Human Services State
2 Institutional System Board and the Board of Developmental Disabilities
3 Services shall be named by the directors thereof, under the departmental
4 rules and regulations related to personnel, and all personnel records of the
5 ~~boards of those~~ institutions of the Department of Human Services State
6 Institutional System Board and the Board of Developmental Disabilities
7 Services shall be in conformance with the general personnel policies
8 promulgated by the ~~Director~~ Secretary of the Department of Human Services for
9 other employees of the department.

10 (c) Nothing in this act shall be construed to reduce any rights which
11 an employee of the department or the various divisions, offices, sections, or
12 units thereof shall have under any civil service or merit system.

13
14 SECTION 5161. Arkansas Code § 25-10-107(a), concerning reports of
15 divisions of the Department of Human Services, is amended to read as follows:

16 (a) All other divisions within the Department of Human Services shall
17 provide the ~~Director's~~ Secretary's Office of the Department of Human Services
18 with all policies regarding personnel administration, procurement of
19 commodities and services, accounting and budget control, licensure of
20 facilities, program planning and evaluation, contractual agreements with
21 consultants and providers of services, data processing systems management,
22 federal grant management, and any other information which may be requested by
23 the office.

24
25 SECTION 5162. Arkansas Code § 25-10-108 is amended to read as follows:

26 25-10-108. Coordination of programs, procedures, etc., of department
27 and institutional boards.

28 In addition to the functions and duties provided by law to be performed
29 by the ~~Director~~ Secretary of the Department of Human Services, the ~~director~~
30 secretary shall direct those divisions, offices, sections, or units of the
31 Department of Human Services which he or she may designate to:

32 (1) Serve in a liaison capacity for the Department of Human
33 Services and the ~~director~~ secretary thereof with the boards and the directors
34 of the various institutional facilities of the Department of Human Services
35 State Institutional System Board and the Board of Developmental Disabilities
36 Services within the Department of Human Services in efforts to coordinate

1 services provided citizens of this state through those institutions with
2 programs of the department for the benefit of neglected, dependent, and
3 delinquent juveniles, individuals with mental illness, and individuals with
4 intellectual disabilities or individuals with developmental disabilities of
5 this state;

6 (2) Cooperate with the administrators of the various
7 institutions under the direction and control of the Department of Human
8 Services State Institutional System Board and the Board of Developmental
9 Disabilities Services within the Department of Human Services in the
10 administration of fiscal and budgetary policies applicable to all divisions
11 and programs of the department as promulgated by the ~~director~~ secretary
12 thereof and as directed by the Chief Fiscal Officer of the State;

13 (3) Offer assistance to the Department of Human Services State
14 Institutional System Board and the Board of Developmental Disabilities
15 Services within the Department of Human Services in developing biennial
16 budgets and annual, quarterly, and monthly fiscal plans for the operation of
17 those institutions and assist ~~those boards~~ the Department of Human Services
18 State Institutional System Board and the Board of Developmental Disabilities
19 Services in complying with the budget and fiscal policies promulgated by the
20 ~~Director~~ Secretary of the Department of Human Services for the control and
21 management of the funds made available to the department and its various
22 offices, divisions, programs, and institutions. In connection therewith, the
23 ~~boards~~ Department of Human Services State Institutional System Board and the
24 Board of Developmental Disabilities Services shall be furnished records of
25 all accounts, expenditures, funds, and fund balances available to each
26 institution for its operation and support;

27 (4)(A) Coordinate, with each institution and its administrator
28 under the control and direction of the Department of Human Services State
29 Institutional System Board and the Board of Developmental Disabilities
30 Services within the Department of Human Services, the purchasing policies and
31 procedures of the department as promulgated by the ~~director~~ secretary thereof
32 to assure that all those institutions comply with the uniform purchasing
33 practices and policies of the department and with the Arkansas Procurement
34 Law, § 19-11-201 et seq., and the rules and regulations promulgated
35 thereunder by the State Procurement Director.

36 (B) However, each of the various institutions under the

1 control of the Department of Human Services State Institutional System Board
2 and the Board of Developmental Disabilities Services within the Department of
3 Human Services is authorized to have institutional purchasing officials who
4 shall be authorized to make purchases in behalf of those institutions which
5 are not within the exclusive jurisdiction of the State Procurement Director,
6 but all such purchases shall be made in compliance with the uniform
7 purchasing practices and policies promulgated by the ~~Director~~ Secretary of
8 the Department of Human Services to be applicable to all divisions, offices,
9 sections, or units of the department and shall be in conformance with the
10 Arkansas Procurement Law, § 19-11-201 et seq., and regulations promulgated by
11 the State Procurement Director; and

12 (5)(A) Coordinate the policies promulgated by the ~~Director~~
13 Secretary of the Department of Human Services for the administration of
14 personnel and personnel records within the various divisions, offices,
15 sections, or units of the department with the Department of Human Services
16 State Institutional System Board, the Board of Developmental Disabilities
17 Services within the Department of Human Services, and the administrators of
18 each of those institutions to assure that all employee records and personnel
19 records conform to the personnel policies and records promulgated by the
20 ~~Director~~ Secretary of the Department of Human Services and to the personnel
21 policies and practices laws of the State of Arkansas.

22 (B) Nothing in this act shall prohibit or restrict the
23 right of each of the institutional boards to employ, promote, discipline, or
24 discharge any employee of any of those institutions so long as those actions
25 are within the overall policies and procedures promulgated by the ~~Director~~
26 Secretary of the Department of Human Services governing employee practices or
27 actions.

28
29 SECTION 5163. Arkansas Code § 25-10-109 is amended to read as follows:
30 25-10-109. Institutional services generally – Development of admission
31 policies, etc.

32 In addition to the functions and duties provided by law and this act to
33 be performed by the Board of Developmental Disabilities Services within the
34 Department of Human Services and the Department of Human Services State
35 Institutional System Board, it is the intent of this act that ~~those boards~~
36 the Department of Human Services State Institutional System Board and the

1 Board of Developmental Disabilities Services shall cooperate with the
2 ~~Director~~ Secretary of the Department of Human Services, the divisions,
3 offices, sections, or units of the Department of Human Services created by
4 this act, and the programs funded by and operated by the department by
5 developing admission policies, criteria, and services which will assure
6 appropriate access to institutional services to meet the residential service
7 needs of the citizens of this state.

8
9 SECTION 5164. Arkansas Code § 25-10-111 is amended to read as follows:
10 25-10-111. Budgeting generally.

11 (a)(1) The ~~Director~~ Secretary of the Department of Human Services
12 shall obtain from each division, office, section, or unit of the Department
13 of Human Services, including the institutions and institutional boards
14 thereunder, all requests for biennial appropriations and all requests for
15 special supplemental or construction appropriations.

16 (2) The ~~director~~ secretary shall review the requests and submit
17 to the Chief Fiscal Officer of the State, the Governor, and the Legislative
18 Council a coordinated budget for all divisions, offices, programs,
19 institutions, and services of the department in whatever detail may be
20 required by the state budgetary laws and by the budget forms and procedures
21 promulgated by the Chief Fiscal Officer of the State and by the Legislative
22 Council.

23 (b) It shall be the responsibility of the ~~director~~ secretary to
24 operate all of its divisions, offices, and programs and to require that each
25 of the institutional boards under the department administer their programs
26 within those fiscal limitations and restraints which the ~~director~~ secretary
27 deems necessary to assure that each program, service, and institution within
28 the department receives an allocation of funds in accordance with the needs
29 of the respective programs, services, and institutions and within the
30 limitation of the moneys allocated and appropriated to the department for the
31 operation of those programs, services, and institutions.

32 (c)(1) Although it is the intent of this act that the Department of
33 Human Services State Institutional System Board and the Board of
34 Developmental Disabilities Services shall each operate their institutional
35 programs and services within the Department of Human Services with autonomy
36 and independence as intended by ~~the~~ Arkansas Constitution, Amendment 33, the

1 General Assembly recognizes that reasonable fiscal policies are necessary to
2 assure that the various services of government are operated on a sound
3 financial basis and that deficit spending is not implemented.

4 (2) In furtherance of that policy, the General Assembly
5 determines that:

6 (A) The ~~director~~ secretary, with respect to the allocation
7 of funds and the exercise of fiscal restraint over all divisions, offices,
8 sections, units, programs, services, and institutions within the department,
9 shall have the ultimate authority to allocate and limit the amount of funds
10 to be expended in the operation of each division, office, program, service,
11 and institution within the department as he or she deems necessary to comply
12 with the fiscal laws of this state; and

13 (B) Nothing herein shall be construed to limit the
14 ultimate authority of the ~~director~~ secretary to develop and operate the
15 various programs in the state institutional system.

16 (3) However, all real property, including capital improvements
17 thereon, constituting the Department of Human Services State Institutional
18 System shall be under the control of the Department of Human Services State
19 Institutional System Board, and ~~that board~~ the Department of Human Services
20 State Institutional System Board and the Board of Developmental Disabilities
21 Services may convey by sale or lease any real property within the state
22 institutional system.

23

24 SECTION 5165. Arkansas Code § 25-10-115(a), concerning county offices
25 of human services, is amended to read as follows:

26 (a) The ~~Director~~ Secretary of the Department of Human Services shall
27 establish a county office of human services in each county of this state. The
28 county offices shall provide the citizens of each county access to the
29 various services and programs provided by the Department of Human Services as
30 well as follow-up contact and services.

31

32 SECTION 5166. Arkansas Code § 25-10-116(a) and (b), concerning the
33 advisory committees of the Department of Human Services, are amended to read
34 as follows:

35 (a) From time to time, the ~~Director~~ Secretary of the Department of
36 Human Services or the Governor may establish various advisory committees to

1 assist the ~~director~~ secretary and the various divisions, offices, sections,
2 or units within Department of Human Services in reviewing and offering advice
3 on any of the programs, services, and duties of the department which the
4 ~~director~~ secretary or the Governor may deem appropriate for the proper and
5 efficient operation of the department and its respective programs, services,
6 and duties.

7 (b) The advisory committees shall exist for the duration determined by
8 the ~~director~~ secretary or the Governor.

9

10 SECTION 5167. Arkansas Code § 25-10-122(b), concerning the creation of
11 the Office of Minority Mental Health, is amended to read as follows:

12 (b) The head of the Office of Minority Mental Health shall be
13 ~~appointed~~ employed by the ~~Director~~ Secretary of the Department of Human
14 Services.

15

16 SECTION 5168. Arkansas Code § 25-10-131 is amended to read as follows:
17 25-10-131. Match transfer.

18 The ~~Director~~ Secretary of the Department of Human Services, with the
19 approval of the Chief Fiscal Officer of the State, is authorized to effect
20 interagency fund transfers for the purpose of providing the state's matching
21 share for payments made to that division or office, or its service providers,
22 for services eligible for federal reimbursement under programs administered
23 by other divisions or offices of the Department of Human Services.

24

25 SECTION 5169. Arkansas Code § 25-10-133(a)(2), concerning transfer
26 provisions, is amended to read as follows:

27 (2) Such reallocations or transfers shall be requested by the
28 ~~Director~~ Secretary of the Department of Human Services.

29

30 SECTION 5170. Arkansas Code § 25-10-136(c), concerning notice of
31 private service contract by the Division of Youth Services, is amended to
32 read as follows:

33 (c) In the event the General Assembly is in session, the ~~Director~~
34 Secretary of the Department of Human Services shall provide the report to the
35 House Committee on Aging, Children and Youth, Legislative and Military
36 Affairs and the ~~chair~~ Chair of the Senate Interim Committee on Children and

1 Youth.

2

3 SECTION 5171. Arkansas Code § 25-10-143(a)-(h), concerning advisory
4 opinions by the Director of the Department of Human Services, is amended to
5 read as follows:

6 (a) As used in this section, "advisory opinion" means a written
7 statement by the ~~Director~~ Secretary of the Department of Human Services or
8 his or her designee that explains the applicability to a specified set of
9 facts of a pertinent statutory or regulatory provision relating to the
10 provision of medical items or services under the medical assistance program
11 administered by the Department of Human Services.

12 (b)(1) The ~~director~~ secretary may issue an advisory opinion at the
13 request of a provider enrolled in the medical assistance program.

14 (2) Except as under subsection (h) of this section, the opinion
15 is binding upon the ~~director~~ secretary with respect to that provider only.

16 (3) If the ~~director~~ secretary cannot respond to the request for
17 an advisory opinion, the ~~director~~ secretary shall within thirty (30) days
18 notify the provider that he or she will not be responding to the request for
19 an opinion.

20 (c) A provider may request an advisory opinion concerning:

21 (1) A substantive question or a procedural matter;

22 (2) Questions arising before an audit or investigation
23 concerning a provider's claim for payment or reimbursement; and

24 (3) A hypothetical or projected service plan.

25 (d) The ~~director~~ secretary shall not issue an advisory opinion if the
26 request for an advisory opinion relates to a pending question raised by the
27 provider in an ongoing or initiated investigation conducted by the Medicaid
28 Inspector General, the Attorney General, a criminal investigation, or a civil
29 or criminal proceeding, or if the provider has received a written notice from
30 the ~~director~~ secretary or the Medicaid Inspector General that advises the
31 provider of an imminent investigation, audit, suspended claim, or withholding
32 of payment or reimbursement.

33 (e) This section does not supersede a federal regulation, law,
34 requirement, or guidance.

35 (f) The ~~director~~ secretary shall adopt a rule establishing the time
36 within which an advisory opinion shall be issued and the criteria for

1 determining the eligibility of a request for departmental response.

2 (g) An advisory opinion represents an expression of the views of the
3 ~~director~~ secretary as to the application of laws, rules, and other
4 precedential material to the set of facts specified in the request for an
5 advisory opinion.

6 (h)(1) A previously issued advisory opinion found by the ~~director~~
7 secretary to be in error may be modified or revoked.

8 (2) If the ~~director~~ secretary modifies or revokes an advisory
9 opinion, the modification or revocation operates prospectively.

10 (3) A recovery of medical assistance overpayments caused by a
11 provider's reliance on an advisory opinion that is later modified or revoked
12 is prohibited for the period up until the modification or revocation unless
13 the provider is involved in fraud.

14 (4) The department promptly shall notify the provider of a
15 modification or revocation of an advisory opinion.

16
17 SECTION 5172. Arkansas Code § 25-10-402 is amended to read as follows:

18 25-10-402. Purpose – Guidelines.

19 (a) The Department of Human Services State Institutional System Board
20 is established to manage the Department of Human Services State Institutional
21 System, as provided and intended by Arkansas Constitution, Amendment 33.

22 (b) The board shall perform its functions and duties in accordance
23 with the general guidelines, policies, and regulations of the ~~department~~
24 Department of Human Services governing divisions, offices, sections, or units
25 within the department with respect to budgets, personnel and personnel
26 policies, records, purchasing, bookkeeping, and other administrative
27 procedures prescribed by the ~~Director~~ Secretary of the Department of Human
28 Services.

29
30 SECTION 5173. Arkansas Code Title 25, Chapter 43, Subchapter 10 is
31 amended to read as follows:

32 Subchapter 10 – Department of Inspector General

33
34 25-43-1001. Department of Inspector General.

35 There is created the Department of Inspector General as a cabinet-level
36 department.

1
2 25-43-1002. State entities transferred to Department of Inspector
3 General.

4 (a) The administrative functions of the following state entities are
5 transferred to the Department of Inspector General under a cabinet-level
6 transfer:

7 (1) The Arkansas Fair Housing Commission, created under § 16-
8 123-303;

9 (2) The Internal Audit Section, created under § 19-4-105; and

10 (3) The Office of Medicaid Inspector General, created under §
11 20-77-2503.

12 (b) Unless otherwise provided by law, a cabinet-level department
13 transfer under subsection (a) of this section includes all state entities
14 under a state entity transferred to the Department of Inspector General under
15 subsection (a) of this section, including without limitation a division,
16 office, program, or other unit of a state entity transferred to the
17 Department of Inspector General under subsection (a) of this section.

18 (c) Unless otherwise provided by law, a state entity whose
19 administrative functions have been transferred to the Department of Inspector
20 General under subsection (a) of this section shall otherwise continue to
21 exercise the duties of the state entity under the administration of the
22 cabinet-level Department of Inspector General in the same manner as before
23 the creation of the cabinet-level department.

24
25 25-43-1003. Secretary of Department of Inspector General.

26 (a) The executive head of the Department of Inspector General shall be
27 the Secretary of the Department of Inspector General.

28 (b) The secretary shall be appointed by the Governor, subject to
29 confirmation by the Senate, and shall serve at the pleasure of the Governor.

30 (c) Each division of the department shall be under the direction,
31 control, and supervision of the secretary.

32 (d) The secretary may delegate his or her functions, powers, and
33 duties to various divisions or employees of the department as he or she shall
34 deem desirable and necessary for the effective and efficient operation of the
35 department.

36 (e) The secretary may, unless otherwise provided by law:

1 (1) Hire department personnel;
2 (2) Perform or assign duties assigned to the department; and
3 (3) Serve as the director or the administrative or executive
4 head of any state entity under the administrative control of the department
5 if the secretary also meets all statutory requirements for the position.

6 (f) The secretary has the authority to direct the department as
7 necessary to conduct and supervise activities to prevent, detect, and
8 investigate fraud and abuse.

9
10 SECTION 5174. Arkansas Code § 16-123-305 is amended to read as
11 follows:

12 16-123-305. Director.

13 (a)(1) The Governor shall appoint a Director of the Arkansas Fair
14 Housing Commission who shall serve at the pleasure of the Governor.

15 (2) The director shall report to the Secretary of the Department
16 of Inspector General.

17 ~~(2)~~(3) The Arkansas Fair Housing Commission may fix the
18 compensation, duties, authority, and responsibilities of the director.

19 (b) The commission may authorize the director to hire necessary staff
20 and to provide for services, furnishings, equipment, and office space and
21 employees of the commission shall be employees of the department.

22
23 SECTION 5175. Arkansas Code § 19-4-105 is amended to read as follows:

24 19-4-105. Continuing studies and investigations – Duties of ~~Chief~~
25 ~~Fiscal Officer of the State~~ Secretary of the Department of Inspector General
26 and Internal Audit Section – Exemption of internal audit documentation from
27 Freedom of Information Act of 1967.

28 (a) The ~~Chief Fiscal Officer of the State~~ Secretary of the Department
29 of Inspector General is directed to make continuing studies and
30 investigations of the operation of state agencies and to make recommendations
31 to the General Assembly, the Legislative Council, and the Governor about
32 improvements which should be made in order to:

33 (1) Safeguard against excessive expenditures of appropriations
34 and funds;

35 (2) Promote economy, efficiency, and control in the operation of
36 state agencies; and

1 (3) ~~Properly execute budgets; and~~
2 ~~(4)~~ Accomplish the purposes of this chapter as intended by the
3 General Assembly.

4 (b) The Internal Audit Section created under the Department of Finance
5 and Administration by Governor's Executive Order 99-08 and transferred to the
6 Department of Inspector General by a cabinet-level department transfer under
7 § 25-43-1002 shall conduct its audits using the suggested standards for the
8 professional practice of internal auditing as adopted by the Institute of
9 Internal Auditors.

10 (c) The Internal Audit Section shall:

11 (1) Review the financial and operating controls and the
12 transactions of state agencies to determine the level of conformity with
13 established laws, standards, regulations, and procedures;

14 (2) Review the various functions within an enterprise to
15 appraise the efficiency and economy of operations and the effectiveness with
16 which those functions achieve the stated objectives, including without
17 limitation a review of established internal control activities;

18 (3) Investigate reported occurrences of fraud, embezzlement,
19 theft, waste, abuse, or mismanagement of state resources;

20 (4) Recommend controls to prevent occurrences of fraud,
21 embezzlement, theft, waste, abuse, or mismanagement of state resources;

22 (5) Assist state agencies to resolve areas of concern;

23 (6) Assist state agencies in establishing appropriate internal
24 controls that will prevent errors or irregularities;

25 (7) Provide objective analysis, appraisals, and recommendations
26 concerning the activities it reviews; and

27 (8) Perform other functions as directed by the Governor, ~~Chief~~
28 ~~Fiscal Officer of the State~~ or the Secretary of the Department of Inspector
29 General, or other board or government entity charged with authority over the
30 Internal Audit Section by executive order.

31 (d) After an audit is completed, the Internal Audit Section shall file
32 a written final report concerning the actions and determinations made under
33 this section with:

34 (1) ~~The Chief Fiscal Officer of the State~~ Secretary of the
35 Department of Inspector General;

36 (2) The Governor;

1 (3) The State Board of Finance; and
 2 (4) Arkansas Legislative Audit; ~~and~~
 3 ~~(5) Any other board or government entity charged with authority~~
 4 ~~over the Internal Audit Section by executive order.~~

5 (e) Employees of the Internal Audit Section shall:

6 (1) Be employed by the ~~Governor or other board or government~~
 7 ~~entity charged with authority over the Internal Audit Section by executive~~
 8 ~~order~~ Secretary of the Department of Inspector General as employees of the
 9 Department of Inspector General; and

10 (2) Serve at the pleasure of the ~~Governor or other board or~~
 11 ~~government entity charged with authority over the Internal Audit Section by~~
 12 ~~executive order~~ Secretary of the Department of Inspector General.

13 (f)(1) All internal audit documentation, including notes, memoranda,
 14 preliminary drafts of audit reports, and other data gathered in the
 15 preparation of internal audit reports by the Internal Audit Section, are
 16 privileged and confidential and are exempt from the Freedom of Information
 17 Act of 1967, § 25-19-101 et seq., except as provided in subdivision (f)(2) of
 18 this section.

19 (2)(A) The exemption shall not apply to completed internal
 20 audits of the Internal Audit Section after a final report of the internal
 21 audit has been presented to:

22 (i) ~~The Chief Fiscal Officer of the State~~ Secretary
 23 of the Department of Inspector General;

24 (ii) The Governor or the Governor's designee;

25 (iii) The State Board of Finance; or

26 (iv) Arkansas Legislative Audit; ~~or~~

27 ~~(v) Any other board or government entity charged~~
 28 ~~with authority over the Internal Audit Section by executive order.~~

29 (B) The final report and copies of any supporting
 30 documentation shall then be open to public inspection and copying, except for
 31 documents that are exempt from disclosure under other law.

32
 33 SECTION 5176. Arkansas Code § 20-77-2503 is amended to read as
 34 follows:

35 20-77-2503. Office of Medicaid Inspector General – Created.

36 The Office of Medicaid Inspector General is created within the ~~office~~

1 ~~of the Governor~~ Department of Inspector General and is independent from the
2 Department of Human Services.

3
4 SECTION 5177. Arkansas Code § 20-77-2504 is amended to read as
5 follows:

6 20-77-2504. Medicaid Inspector General – Appointment – Qualifications.

7 (a)(1) The Medicaid Inspector General shall be appointed by the
8 Governor, with the advice and consent of the Senate.

9 (2) The inspector shall serve at the pleasure of the Governor.

10 (b) The inspector shall report ~~directly to the Governor~~ to the
11 Secretary of the Department of Inspector General.

12 (c) The Medicaid Inspector General shall be the Director of the Office
13 of Medicaid Inspector General.

14 (d) The ~~inspector~~ Medicaid Inspector General shall have not less than
15 ten (10) years of professional experience in one (1) or more of the following
16 areas of expertise:

17 (1) Prosecution for fraud;

18 (2) Fraud investigation;

19 (3) Auditing; or

20 (4) Comparable alternate experience in health care, if the
21 healthcare experience involves some consideration of fraud.

22
23 SECTION 5178. Arkansas Code § 20-77-2506 is amended to read as
24 follows:

25 20-77-2506. Medicaid Inspector General – Duties.

26 The Medicaid Inspector General shall, in consultation with the
27 Secretary of the Department of Inspector General:

28 (1) Hire deputies, directors, assistants, and other officers and
29 employees needed for the performance of his or her duties and prescribe the
30 duties of deputies, directors, assistants, and other officers and fix the
31 compensation of deputies, directors, assistants, and other officers within
32 the amounts appropriated;

33 (2)(A) Conduct and supervise activities to prevent, detect, and
34 investigate medical assistance program fraud and abuse.

35 (B)(i) The Office of Medicaid Inspector General shall
36 review provider records only for the three (3) years before an investigation

1 begins.

2 (ii) However, if a credible allegation of fraud has
3 been made or if the ~~office~~ Office of Medicaid Inspector General has reason to
4 believe that fraud has occurred, the Office of Medicaid Inspector General may
5 review provider records for the five (5) years before the investigation
6 began;

7 (3) Work in a coordinated and cooperative manner with:

8 (A) Federal, state, and local law enforcement agencies;

9 (B) The Medicaid Fraud Control Unit of the office of the
10 Attorney General;

11 (C) United States Attorneys;

12 (D) The United States Department of Health and Human
13 Services' Office of Inspector General;

14 (E) The Federal Bureau of Investigation;

15 (F) The United States Drug Enforcement Administration;

16 (G) Prosecuting attorneys;

17 (H) The Centers for Medicare and Medicaid Services; and

18 (I) An investigative unit maintained by a health insurer;

19 (4) Solicit, receive, and investigate complaints related to
20 fraud and abuse within the medical assistance program;

21 (5)(A) Inform the Governor, the Secretary of the Department of
22 Inspector General, the Attorney General, the President Pro Tempore of the
23 Senate, and the Speaker of the House of Representatives regarding efforts to
24 prevent, detect, investigate, and prosecute fraud and abuse within the
25 medical assistance program.

26 (B) All cases in which fraud is determined to have
27 occurred shall be referred to the appropriate law enforcement agency for
28 prosecution;

29 (6)(A) Pursue civil and administrative enforcement actions
30 against an individual or entity that engages in fraud, abuse, or illegal or
31 improper acts within the medical assistance program, including without
32 limitation:

33 (i) Referral of information and evidence to
34 regulatory agencies and licensure boards;

35 (ii) Withholding payment of medical assistance funds
36 in accordance with state laws and rules and federal laws and regulations;

1 (iii) Imposition of administrative sanctions and
2 penalties in accordance with state laws and rules and federal laws and
3 regulations;

4 (iv) Exclusion of providers, vendors, and
5 contractors from participation in the medical assistance program;

6 (v) Initiating and maintaining actions for civil
7 recovery and, where authorized by law, seizure of property or other assets
8 connected with improper payments;

9 (vi) Entering into civil settlements; and

10 (vii) Recovery of improperly expended medical
11 assistance program funds from those who engage in fraud or abuse or illegal
12 or improper acts perpetrated within the medical assistance program.

13 (B) In investigating civil and administrative enforcement
14 actions under subdivision (a)(6)(A) of this section, the Medicaid Inspector
15 General shall consider the quality and availability of medical care and
16 services and the best interest of both the medical assistance program and
17 recipients;

18 (7) Make available to appropriate law enforcement officials
19 information and evidence relating to suspected criminal acts that have been
20 obtained in the course of the Medicaid Inspector General's duties;

21 (8)(A) Refer suspected fraud or criminal activity to the
22 Medicaid Fraud Control Unit.

23 (B) After a referral and with ten (10) days' written
24 notice to the Medicaid Fraud Control Unit, the Medicaid Inspector General may
25 provide relevant information about suspected fraud or criminal activity to
26 another federal or state law enforcement agency that the ~~inspector~~ Medicaid
27 Inspector General deems appropriate under the circumstances;

28 (9) Subpoena and enforce the attendance of witnesses, administer
29 oaths or affirmations, examine witnesses under oath, and take testimony in
30 connection with an investigation or audit under this subchapter and under
31 rules governing these investigations;

32 (10) Require and compel the production of books, papers,
33 records, and documents as he or she deems relevant or material to an
34 investigation, examination, or review undertaken under this section;

35 (11)(A) Examine and copy or remove documents or records related
36 to the medical assistance program or necessary for the Medicaid Inspector

1 General to perform his or her duties if the documents are prepared,
2 maintained, or held by or available to a state agency or local governmental
3 entity the patients or clients of which are served by the medical assistance
4 program, or the entity is otherwise responsible for the control of fraud and
5 abuse within the medical assistance program.

6 (B) A document or record examined and copied or removed by
7 the Medicaid Inspector General under subdivision (11)(A) of this section is
8 confidential.

9 (C) The removal of a record under subdivision (11)(A) of
10 this section is limited to circumstances in which a copy of the record is
11 insufficient for an appropriate legal or investigative purpose.

12 (D) For a removal under subdivision (11)(A) of this
13 section, the Medicaid Inspector General shall copy the record and ensure the
14 expedited return of the original, or of a copy if the original is required
15 for an appropriate legal or investigative purpose, so that the information is
16 expedited and the original or copy is readily accessible for the care and
17 treatment needs of the patient;

18 (12)(A) Recommend and implement policies relating to the
19 prevention and detection of fraud and abuse.

20 (B) The Medicaid Inspector General shall obtain the
21 consent of the Attorney General before the implementation of a policy under
22 subdivision (12)(A) of this section that may affect the operations of the
23 office of the Attorney General;

24 (13)(A) Monitor the implementation of a recommendation made by
25 the Office of Medicaid Inspector General to an agency or other entity with
26 responsibility for administration of the medical assistance program and
27 produce a report detailing the results of its monitoring activity as
28 necessary.

29 (B) The report shall be submitted to the:

30 (i) ~~Governor~~ Secretary of the Department of
31 Inspector General;

32 (ii) President Pro Tempore of the Senate;

33 (iii) Speaker of the House of Representatives;

34 (iv) Legislative Council;

35 (v) Arkansas Legislative Audit; and

36 (vi) Attorney General;

1 (14) Prepare cases, provide testimony, and support
2 administrative hearings and other legal proceedings;

3 (15) Review and audit contracts, cost reports, claims, bills,
4 and other expenditures of medical assistance program funds to determine
5 compliance with applicable state laws and rules and federal laws and
6 regulations and take actions authorized by state laws and rules and federal
7 laws and regulations;

8 (16)(A) Work with the fiscal agent employed to operate the
9 Medicaid Management Information System of the Department of Human Services to
10 optimize the system, including without limitation the ability to add edits
11 and audits in consultation with the Department of Human Services.

12 (B) The Medicaid Inspector General shall be consulted
13 before an edit or audit is added or discontinued by the Department of Human
14 Services;

15 (17) Work in a coordinated and cooperative manner with relevant
16 agencies in the implementation of information technology relating to the
17 prevention and identification of fraud and abuse in the medical assistance
18 program;

19 (18)(A) Conduct educational programs for medical assistance
20 program providers, vendors, contractors, and recipients designed to limit
21 fraud and abuse within the medical assistance program.

22 (B) The Office of Medicaid Inspector General shall
23 regularly communicate with and educate providers about the Office of Medicaid
24 Inspector General's fraud and abuse prevention program and its audit policies
25 and procedures.

26 (C) The Office of Medicaid Inspector General shall educate
27 providers annually concerning its areas of focus within the medical
28 assistance program, appropriate billing and documentation, and methods for
29 improving compliance with program rules, policies, and procedures;

30 (19)(A) Develop protocols to facilitate the efficient self-
31 disclosure consistent with the Patient Protection and Affordable Care Act,
32 Pub. L. No. 111-148, and the collection of overpayments and monitor
33 collections, including those that are self-disclosed by providers.

34 (B) A provider's good faith self-disclosure of
35 overpayments may be considered as a mitigating factor in the determination of
36 an administrative enforcement action;

1 (20) Receive and investigate complaints of alleged failures of
2 state and local officials to prevent, detect, and prosecute fraud and abuse
3 in the medical assistance program;

4 (21) Implement rules relating to the prevention, detection,
5 investigation, and referral of fraud and abuse within the medical assistance
6 program and to the recovery of improperly expended medical assistance program
7 funds;

8 (22) Conduct, in the context of the investigation of fraud and
9 abuse, on-site inspections of a facility or an office;

10 (23)(A) Take appropriate authorized actions to ensure that the
11 medical assistance program is the payor of last resort; and

12 (B) Recommend to the ~~department~~ Department of Human
13 Services that it take appropriate actions authorized under the ~~department's~~
14 jurisdiction of the Department of Human Services to ensure that the medical
15 assistance program is the payor of last resort;

16 (24) Annually submit a budget request for the next state fiscal
17 year to the Governor;

18 (25) Identify and order the return of underpayments to
19 providers;

20 (26) Maintain the confidentiality of all information and
21 documents that are deemed confidential by law;

22 (27) Implement, facilitate, and maintain federally required
23 directives and contracts required for Medicaid integrity programs;

24 (28) Implement and maintain a hotline for reporting complaints
25 regarding fraud, waste, and abuse by providers;

26 (29) Audit, investigate, and access Medicaid encounter data,
27 premium data, or other information from an entity contracted with for the
28 purpose of serving Medicaid programs;

29 (30)(A) Promulgate administrative rules to establish policies
30 and procedures for audits and investigations that are consistent with the
31 duties of the Office of Medicaid Inspector General under this chapter.

32 (B) The rules shall be posted on the Office of Medicaid
33 Inspector General's website;

34 (31) Identify conflicts between the Medicaid state plan,
35 ~~department~~ Department of Human Services rules, Medicaid provider manuals,
36 Medicaid notices, or other guidance and recommend that the ~~department~~

1 Department of Human Services reconcile inconsistencies;

2 (32) When conducting an audit, investigation, or review under
3 this subchapter, classify violations as either:

4 (A) Errors that do not rise to the level of fraud or
5 abuse; or

6 (B) Fraud or abuse;

7 (33)(A) If a credible allegation of fraud has been made, review
8 provider records that have been the subject of a previous audit or review for
9 the purpose of fraud investigation and referral.

10 (B) However, the Medicaid Inspector General shall not
11 duplicate an audit of a contract, cost report, claim, bill, or expenditure of
12 a medical assistance program fund that has been the subject of a previous
13 audit or review by or on behalf of the Office of Medicaid Inspector General,
14 the Medicaid Fraud Control Unit, or other federal agency with authority over
15 the medical assistance program if the audit or review was performed in
16 accordance with the Government Auditing Standards;

17 (34)(A) Utilize a quality improvement organization as part of
18 the assessment of quality of services.

19 (B) The quality improvement organization shall refer all
20 identified improper payments due to technical deficiencies, abuse, waste, or
21 fraud to the Medicaid Inspector General for further investigation and
22 appropriate action, including without limitation recovery; and

23 (35) Perform other functions necessary or appropriate to fulfill
24 the duties and responsibilities of the Office of Medicaid Inspector General.

25

26 SECTION 5179. Arkansas Code § 20-77-2509(a), concerning the reports
27 required of the Medicaid Inspector General, is amended to read as follows:

28 (a) The Medicaid Inspector General shall, no later than October 1 of
29 each year, submit to the ~~Governor~~ Secretary of the Department of Inspector
30 General, the President Pro Tempore of the Senate, the Speaker of the House of
31 Representatives, Arkansas Legislative Audit, the Legislative Council, and the
32 Attorney General a report summarizing the activities of the Office of
33 Medicaid Inspector General during the preceding calendar year.

34

35 SECTION 5180. Arkansas Code § 20-77-2509(d) and (e), concerning the
36 reports required of the Medicaid Inspector General, are amended to read as

1 follows:

2 (d)(1) In making the report required under subsection (a) of this
3 section, the ~~inspector~~ Medicaid Inspector General shall not disclose
4 information that jeopardizes an ongoing investigation or proceeding.

5 (2) The ~~inspector~~ Medicaid Inspector General may disclose
6 information in the report required under subsection (a) of this section if
7 the information does not jeopardize an ongoing investigation or proceeding
8 and the ~~inspector~~ Medicaid Inspector General fully apprises the designated
9 recipients of the scope and quality of the office's activities.

10 (e) Quarterly by April 1, July 1, October 1, and January 1 of each
11 year, the ~~inspector~~ Medicaid Inspector General shall submit to the Governor,
12 the President Pro Tempore of the Senate, the Speaker of the House of
13 Representatives, ~~the Division of~~ Arkansas Legislative Audit, the Legislative
14 Council, and the Attorney General an accountability statement providing a
15 statistical profile of the referrals made to the Medicaid Fraud Control Unit
16 of the office of the Attorney General, audits, investigations, and
17 recoveries.

18

19 SECTION 5181. Arkansas Code Title 25, Chapter 43, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 11 – Department of Labor and Licensing

22

23 25-43-1101. Department of Labor and Licensing.

24 There is created the Department of Labor and Licensing as a cabinet-
25 level department.

26

27 25-43-1102. State entities transferred to Department of Labor and
28 Licensing.

29 (a) The administrative functions of the following state entities are
30 transferred to the Department of Labor and Licensing by a cabinet-level
31 department transfer:

32 (1) The Arkansas Abstracters' Board, created under § 17-11-401;

33 (2) The Arkansas Appraiser Licensing and Certification Board,
34 created under § 17-14-201;

35 (3) The Arkansas Fire Protection Licensing Board, created under
36 § 20-22-606;

- 1 (4) The Arkansas Home Inspector Registration Board, created
2 under § 17-52-304;
- 3 (5) The Arkansas Manufactured Home Commission, created under §
4 20-25-105;
- 5 (6) The Arkansas Mediation and Conciliation Service, defined
6 under § 11-2-203;
- 7 (7) The Arkansas Motor Vehicle Commission, created under § 23-
8 112-201;
- 9 (8) The Arkansas Real Estate Commission, created under § 17-42-
10 201;
- 11 (9) The Arkansas State Board of Architects, Landscape
12 Architects, and Interior Designers, created under § 17-15-201;
- 13 (10) The Arkansas State Board of Public Accountancy, created
14 under § 17-12-201;
- 15 (11) The Arkansas Towing and Recovery Board, created under § 27-
16 50-1203;
- 17 (12) The Auctioneer's Licensing Board, created under § 17-17-
18 201;
- 19 (13) The Board of Electrical Examiners of the State of Arkansas,
20 created under § 17-28-201;
- 21 (14) The Contractors Licensing Board, created under § 17-25-201;
- 22 (15) The Department of Labor, created under § 25-43-404; now to
23 be known as the Division of Labor;
- 24 (16) The Elevator Inspection and Permits "Elevator Safety Board"
25 under § 20-24-105;
- 26 (17) The HVACR Licensing Board, created under § 17-33-201;
- 27 (18) The Pawnbroker Licensure Commission, created under § 17-56-
28 201;
- 29 (19) The Professional Bail Bond Company and Professional Bail
30 Bondsman Licensing Board, created under § 17-19-106;
- 31 (20) The State Athletic Commission, created under § 17-22-201;
- 32 (21) The State Board of Barber Examiners, created under § 17-20-
33 201;
- 34 (22) The State Board of Collection Agencies, created under § 17-
35 24-201;
- 36 (23) The State Board of Licensure for Professional Engineers and

1 Professional Surveyors, created under § 17-30-201;

2 (24) The State Board of Registration for Professional
3 Geologists, created under § 17-32-201; and

4 (25) The Workers' Compensation Commission, created under § 11-9-
5 201.

6 (b) Unless otherwise provided by law, a cabinet-level department
7 transfer under subsection (a) of this section includes all state entities
8 under a state entity transferred to the Department of Labor and Licensing
9 under subsection (a) of this section, including without limitation a
10 division, office, program, or other unit of a state entity transferred to the
11 Department of Labor and Licensing under subsection (a) of this section.

12 (c) Unless otherwise provided by law, a state entity whose
13 administrative functions have been transferred to the Labor and Licensing
14 under subsection (a) of this section shall otherwise continue to exercise the
15 duties of the state entity under the administration of the cabinet-level
16 Department of Labor and Licensing in the same manner as before the creation
17 of the cabinet-level department.

18
19 25-43-1103. Secretary of the Department of Labor and Licensing.

20 (a) The executive head of the Department of Labor and Licensing shall
21 be the Secretary of the Department of Labor and Licensing.

22 (b) The secretary shall be appointed by the Governor, subject to
23 confirmation by the Senate, and shall serve at the pleasure of the Governor.

24 (c) Each division of the department shall be under the direction,
25 control, and supervision of the secretary.

26 (d) The secretary may delegate his or her functions, powers, and
27 duties to various divisions or employees of the department as he or she shall
28 deem desirable and necessary for the effective and efficient operation of the
29 department.

30 (e) The secretary may, unless otherwise provided by law:

31 (1) Hire department personnel;

32 (2) Perform or assign duties assigned to the department; and

33 (3) Serve as the director, or the administrative or executive
34 head of any state entity under the administrative control of the department
35 if the secretary also meets all statutory requirements for the position.

36

1 25-43-1104. Organization.

2 (a) The Department of Labor and Licensing shall consist of those
3 divisions of the Department of Labor which existed as of June 30, 2019, those
4 state entities transferred to the department pursuant to § 25-43-402, and any
5 other divisions or state entities which may be created by law and placed
6 under the department.

7 (b) Members of a statutory board or commission transferred to the
8 department pursuant to a cabinet-level transfer shall continue to be selected
9 in the manner and serve for the terms provided by the statutes applicable to
10 that board or commission as such statutes may from time to time be amended.

11
12 25-43-1104. Division of Labor.

13 (a) There is created a Division of Labor within the Department of
14 Labor and Licensing.

15 (b) The Secretary of the Department of Labor and Licensing may
16 delegate any duties and responsibilities to the Division of Labor.

17 (c) The Division of Labor shall retain the statutory duties delegated
18 to the division.

19 (d) The Secretary of the Department of Labor and Licensing may employ
20 a Director of the Division of Labor.

21
22 25-43-1105. Division of Occupational and Professional Licensing Boards
23 and Commissions.

24 (a) There is created a Division of Occupational and Professional
25 Licensing Boards and Commissions within the Department of Labor and
26 Licensing.

27 (b) The Secretary of the Department of Labor and Licensing may
28 delegate any duties and responsibilities to the Division of Occupational and
29 Professional Licensing Boards and Commissions.

30 (c) The Secretary of the Department of Labor and Licensing may employ
31 a Director of the Division of Occupational and Professional Licensing Boards
32 and Commissions.

33
34 SECTION 5182. Arkansas Code § 5-64-1301 is amended to read as follows:

35 5-64-1301. Possession of anhydrous ammonia in unlawful container.

36 Any person who knowingly possesses anhydrous ammonia in a container

1 that does not comply with the regulations of the Boiler Inspection Division
2 of the ~~Department~~ Division of Labor for the containment of anhydrous ammonia
3 is guilty of a Class B felony.

4
5 SECTION 5183. Arkansas Code § 8-7-1003(a)(2), concerning the
6 definition of "director" under the Public Employees' Chemical Right to Know
7 Act, is repealed.

8 ~~(2) "Director" means the Director of the Department of Labor or~~
9 ~~his or her designee;~~

10
11 SECTION 5184. Arkansas Code § 8-7-1004(1), concerning the duties of
12 public employers under the Public Employees' Chemical Right to Know Act, is
13 amended to read as follows:

14 (1) Post adequate notice, as provided by the Director of the
15 ~~Department~~ Division of Labor, at locations where notices are normally posted,
16 informing public employees about their rights under this subchapter;

17
18 SECTION 5185. Arkansas Code § 8-7-1006(e), concerning material safety
19 data sheets under the Public Employees' Chemical Right to Know Act, is
20 amended to read as follows:

21 (e) A public employer, chemical manufacturer, or distributor shall
22 provide a copy of a material safety data sheet to the Director of the
23 ~~Department~~ Division of Labor upon request.

24
25 SECTION 5186. Arkansas Code § 8-7-1007(b), concerning workplace
26 chemical lists under the Public Employees' Chemical Right to Know Act, is
27 amended to read as follows:

28 (b) Each public employer shall file the workplace chemical list with
29 the Director of the Department of Labor or the Division of Labor no later
30 than ninety (90) days after July 1, 1991, and shall update the workplace
31 chemical list as necessary, but in any case by July 1 of each subsequent
32 year.

33
34 SECTION 5187. Arkansas Code § 8-7-1008(b)(1), concerning employee
35 information and training under the Public Employees' Chemical Right to Know
36 Act, is amended to read as follows:

1 (b)(1) The information and training program provided pursuant to this
2 section shall be developed in accordance with regulations to be promulgated
3 by the Director of the Department of Labor or the Division of Labor pursuant
4 to § 8-7-1011 within six (6) months after July 1, 1991.

5
6 SECTION 5188. Arkansas Code § 8-7-1009(a), concerning outreach
7 activities of the Director of the Department of Labor under the Public
8 Employees' Chemical Right to Know Act, is amended to read as follows:

9 (a) The Director of the ~~Department~~ Division of Labor shall develop and
10 give each public employer a suitable form of notice providing public
11 employees with information regarding their rights under this subchapter.

12
13 SECTION 5189. Arkansas Code § 8-7-1010(b), concerning the rights of
14 public employees under the Public Employees' Chemical Right to Know Act, is
15 amended to read as follows:

16 (b) No public employer shall discharge or cause to be discharged or
17 otherwise discipline or discriminate against a public employee because the
18 public employee has requested information, filed a complaint, assisted an
19 inspector of the Director of the ~~Department~~ Division of Labor, or instituted
20 or caused to be instituted any complaint or proceeding under or related to
21 this subchapter or has testified or is about to testify in any such
22 proceeding or has exercised any rights afforded by this subchapter on behalf
23 of the public employee or other public employees, nor shall any pay,
24 position, seniority, or other benefits to which the public employee may be
25 entitled be lost because the public employee exercised rights afforded by
26 this subchapter.

27
28 SECTION 5190. Arkansas Code § 8-7-1011(a), concerning rule-making
29 under the Public Employees' Chemical Right to Know Act, is amended to read as
30 follows:

31 (a) The Director of the ~~Department~~ Division of Labor may promulgate
32 rules and regulations in accordance with the provisions of §§ 11-2-110, 11-2-
33 112, and 11-2-113 to implement the provisions of this subchapter. This
34 authority shall include, but not be limited to, the authority to implement
35 changes corresponding to future amendments to the Hazard Communication
36 Standard to maintain consistency between this subchapter and the Hazard

1 Communication Standard.

2

3 SECTION 5191. Arkansas Code § 8-7-1012(a)(4), concerning rulemaking
4 under the Public Employees' Chemical Right to Know Act, is amended to read as
5 follows:

6 (4) The specific chemical identity is made available to health
7 professionals, employees, and their designated representatives under the same
8 conditions as are set out in the Hazard Communication Standard, 29 C.F.R. §
9 1910.1200(i)(2)-(7), provided, the information disclosable to the United
10 States Occupational Safety and Health Administration under the Hazard
11 Communication Standard shall also be disclosable to the Director of the
12 ~~Department~~ Division of Labor.

13

14 SECTION 5192. Arkansas Code § 8-7-1013(a), concerning complaints and
15 investigations under the Public Employees' Chemical Right to Know Act, is
16 amended to read as follows:

17 (a) Complaints received orally or in writing from public employees,
18 their designated representatives, or public employers related to alleged
19 violations of this subchapter shall be investigated in a timely manner by the
20 Director of the ~~Department~~ Division of Labor.

21

22 SECTION 5193. Arkansas Code § 8-7-1014(a), concerning enforcement
23 under the Public Employees' Chemical Right to Know Act, is amended to read as
24 follows:

25 (a) If the Director of the ~~Department~~ Division of Labor determines
26 that a public employer has violated a provision of this subchapter, the
27 director shall issue an order to the official responsible for performing the
28 duties required by this subchapter directing that official to cease and
29 desist the act or omission constituting the violation. Such an order shall
30 constitute prima facie evidence of a violation in any enforcement action
31 filed pursuant to § 8-7-1015.

32

33 SECTION 5194. Arkansas Code § 8-7-1015(a), concerning attorney's fees
34 and a cause of action under the Public Employees' Chemical Right to Know Act,
35 is amended to read as follows:

36 (a) Any citizen denied the rights granted to him or her by this

1 subchapter may commence a civil action against a public employer or
2 responsible official of a public employer in the Pulaski County Circuit Court
3 or the circuit court of the residence of the aggrieved party, if an agency of
4 the state is involved, or any of the circuit courts of the appropriate
5 judicial districts when any other public employer is involved. Issuance of a
6 cease and desist order by the Director of the ~~Department~~ Division of Labor
7 shall not be a prerequisite to the commencement of such an action.

8
9 SECTION 5195. Arkansas Code § 11-2-101 is amended to read as follows:
10 11-2-101. Purpose.

11 The purpose of the ~~Department~~ Division of Labor shall be to foster,
12 promote, and develop the welfare of the wage earners of Arkansas, to improve
13 their working conditions, and to advance their opportunities for profitable
14 employment.

15
16 SECTION 5196. Arkansas Code § 11-2-104(a), concerning penalties for
17 violations of orders of the Director of the Department of Labor, is amended
18 to read as follows:

19 (a) Any employer or owner who violates or fails or refuses to comply
20 with any provision of this subchapter, any lawful order of the Director of
21 the ~~Department~~ Division of Labor, or any judgment or decree made by any court
22 in connection with the provisions of this subchapter for which no penalty has
23 been otherwise provided shall be guilty of a misdemeanor.

24
25 SECTION 5197. Arkansas Code § 11-2-105(a)(1), concerning enforcement
26 actions upon request of the Director of the Department of Labor, is amended
27 to read as follows:

28 (a)(1) It shall be the duty of the Attorney General and the several
29 prosecuting attorneys, upon request of the Director of the ~~Department~~
30 Division of Labor, or any of his or her authorized representatives, to
31 prosecute any violation of the law that is the duty of the director to
32 enforce.

33
34 SECTION 5198. Arkansas Code § 11-2-106 is repealed.

35 ~~11-2-106. Creation.~~

36 ~~(a) A Department of Labor is created and established under the~~

1 ~~supervision and direction of a director to be known as the Director of the~~
2 ~~Department of Labor.~~

3 ~~(b) The director may set up within the department such divisions as he~~
4 ~~or she may deem necessary for the exercise of the powers and the performance~~
5 ~~of the duties of the department, except as otherwise provided by law.~~

6
7 SECTION 5199. Arkansas Code § 11-2-107(a)-(c), concerning the
8 appointment of the Director of the Department of Labor, is amended to read as
9 follows:

10 (a) The Governor shall appoint the Director of the ~~Department~~ Division
11 of Labor, subject to confirmation by the Senate.

12 (b)(1) The director shall serve at the pleasure of the Governor.

13 (2) The director shall report to the Secretary of the Department
14 of Labor and Licensing and

15 ~~(2)(3)~~ The director shall be a person who, on account of his or
16 her previous vocation, employment, or affiliation can be classed as a
17 representative of employees.

18 ~~(3) Any individual chosen to fill a vacancy shall be appointed~~
19 ~~only for the unexpired portion of the term of the director whom he or she~~
20 ~~shall succeed, and shall have the same qualifications as the director.~~

21 (4) All appointments made while the Senate is not in regular
22 session shall be effective ad interim.

23 (c) The director shall give a bond in the sum of two thousand dollars
24 (\$2,000) with sureties to be approved by the ~~Governor~~ Secretary of the
25 Department of Labor and Licensing, conditioned for the faithful discharge of
26 the duties of his or her office.

27
28 SECTION 5200. Arkansas Code § 11-2-108 is amended to read as follows:

29 11-2-108. Director – Powers and duties generally.

30 In addition to such other duties and powers as may be conferred upon
31 him or her by law, the Director of the ~~Department~~ Division of Labor shall
32 have the power, jurisdiction, and authority:

33 (1) To enforce all labor laws in the State of Arkansas, the
34 enforcement of which is not otherwise specifically provided for;

35 (2) To administer and enforce all laws, rules, and regulations
36 that are the duty of the ~~Department~~ Division of Labor to administer and

1 enforce;

2 (3) To direct, except as otherwise provided, make, or cause to
3 be made all necessary inspections to see that all laws and rules made
4 pursuant thereto that the ~~department~~ division has the duty, power, and
5 authority to enforce are promptly and effectively carried out; and

6 (4) To make investigations, collect and compile statistical
7 information, and report upon conditions of labor generally and upon all
8 matters relating to the enforcement and effect of the provisions of this
9 subchapter and of the rules issued under this subchapter.

10

11 SECTION 5201. Arkansas Code § 11-2-109 is amended to read as follows:

12 11-2-109. Director – Intervention in and arbitration of labor
13 disputes.

14 (a) In addition to such other duties and powers as may be conferred
15 upon him or her by law, the Director of the ~~Department~~ Division of Labor
16 shall have the power, jurisdiction, and authority:

17 (1)(A) To intervene or authorize his or her representative to
18 intervene in any labor dispute in a strictly conciliatory or mediatory
19 capacity whenever he or she is extended a written invitation to do so by
20 either party to the controversy.

21 (B) However, the ~~Department~~ Division of Labor may proffer
22 its services to both parties when a work stoppage is threatened and neither
23 party requests intervention;

24 (2) To do all in his or her power to promote the voluntary
25 arbitration of disputes between employers and employees and to avoid the
26 necessity of resorting to lockouts, boycotts, blacklists, discriminations,
27 and legal proceedings in matters of employment.

28 (b)(1) In pursuance of his or her duty, whenever both sides to any
29 controversy agree to voluntary arbitration, the director may appoint
30 temporary boards of arbitration, prescribe rules of procedure for the
31 arbitration boards, conduct investigations and hearings, publish reports and
32 advertisements, and do all things convenient and necessary to accomplish the
33 purposes of this subchapter.

34 (2) Members of the boards of arbitration may receive expense
35 reimbursement in accordance with § 25-16-901 et seq.

36 (c)(1) The ~~director~~ secretary may designate an employee of the

1 ~~department~~ division to act as chief mediator and may detail other employees
2 or persons not in the ~~department~~ division from time to time to act as his or
3 her assistants for the purpose of executing these provisions.

4 (2) Employees of the ~~department~~ division shall serve on
5 temporary boards without extra compensation.

6
7 SECTION 5202. Arkansas Code § 11-2-110 is amended to read as follows:
8 11-2-110. Director – Rulemaking authority.

9 (a) In addition to such other powers and duties as may be conferred
10 upon him or her by law, the Director of the ~~Department~~ Division of Labor
11 shall have the power to make, modify, and repeal reasonable rules for the
12 prevention of accidents or industrial or occupational diseases in every
13 employment or place of employment and to make, modify, and repeal reasonable
14 rules for the construction, repair, and maintenance of places of employment,
15 places of public assembly, and public buildings which shall render them safe.

16 (b) The director shall have the power to make, modify, or repeal such
17 rules, or changes in rules, as he or she may deem necessary to carry out the
18 provisions of this subchapter.

19 (c) The director may appoint committees composed of employers,
20 employees, and experts to suggest rules or changes therein.

21 (d) The rules of the director shall have the force and effect of law
22 and shall be enforced by the director in the same manner as the provisions of
23 this subchapter.

24
25 SECTION 5203. Arkansas Code § 11-2-111 is amended to read as follows:
26 11-2-111. Office – Employees – Location of hearings.

27 (a) The ~~Director~~ Secretary of the Department of Labor and Licensing is
28 authorized to appoint a deputy director, a secretary, the heads of divisions,
29 and such other employees as may be necessary. He or she is authorized to
30 assign them to their duties and recommend to the General Assembly the
31 salaries that are to be fixed by appropriation.

32 (b) The ~~Department~~ Division of Labor shall keep an office in ~~the City~~
33 ~~of Little Rock~~ Pulaski County and shall maintain such other office as shall
34 meet the convenience of the ~~department~~ division and the public.

35 (c) The members, employees, and agents of the ~~department~~ division
36 shall be entitled to receive from the state their necessary and actual

1 expenses while traveling on the business of the ~~department~~ division either
2 within or without the State of Arkansas.

3 (d) The ~~director~~ secretary and his or her authorized representatives
4 may hold hearings at any place other than the Capitol when the convenience of
5 the ~~department~~ division and of the interested parties requires.

6
7 SECTION 5204. Arkansas Code § 11-2-112 is amended to read as follows:
8 11-2-112. Promulgation of rules.

9 (a) Before any rule is adopted, amended, or repealed, there shall be a
10 public hearing thereon, notice of which shall be published at least once and
11 not less than ten (10) days prior to the public hearing in such newspaper as
12 the Director of the ~~Department~~ Division of Labor may prescribe.

13 (b)(1) All rules and all amendments and repeals thereof shall, unless
14 otherwise prescribed by the director, take effect thirty (30) days after the
15 first publication thereof, and certified copies shall be filed in the office
16 of the Secretary of State.

17 (2) Every rule adopted and every amendment or repeal shall be
18 published in such manner as the director may determine, and the director
19 shall deliver a copy to every person making application therefor. The
20 director shall include the text of each rule or amendment in an appendix to
21 the annual report of the ~~department~~ Division of Labor next following the
22 adoption or amendment of the rule.

23
24 SECTION 5205. Arkansas Code § 11-2-113(a), concerning variation of
25 rules of the Department of Labor due to difficulties or hardship, is amended
26 to read as follows:

27 (a) If there shall be practical difficulties or unnecessary hardships
28 in carrying out a rule of the Director of the ~~Department~~ Division of Labor,
29 the director may, after public hearing, make a variation from such
30 requirement if the spirit of the rule and law shall be observed.

31
32 SECTION 5206. Arkansas Code § 11-2-114(a)(1), concerning judicial
33 review of rules of the Director of the Department of Labor, is amended to
34 read as follows:

35 (a)(1) Any person aggrieved by a rule of the Director of the
36 ~~Department~~ Division of Labor made pursuant to § 11-2-112 may commence an

1 action in the Pulaski County Circuit Court against the ~~Department~~ Division of
2 Labor, as defendant, to set aside the rule on the ground that it is unlawful
3 or unreasonable.

4
5 SECTION 5207. Arkansas Code § 11-2-115(a)(1), concerning the
6 inspection of employer records, is amended to read as follows:

7 (a)(1) Every employer or owner shall furnish to the Director of the
8 ~~Department~~ Division of Labor any information that the director is authorized
9 to require and shall make true and specific answers to all questions, whether
10 submitted orally or in writing, authorized to be put to the employer or
11 owner.

12
13 SECTION 5208. Arkansas Code § 11-2-115(b), concerning the inspection
14 of employer records, is amended to read as follows:

15 (b) The director and any authorized representative of the ~~Department~~
16 Division of Labor shall, for the purpose of examination, have access to and
17 the right to copy from any book, account, record, payroll, paper, or
18 documents relating to the employment of workers.

19
20 SECTION 5209. Arkansas Code § 11-2-116(a), concerning the authority to
21 enter and inspect workplaces, is amended to read as follows:

22 (a) The Director of the ~~Department~~ Division of Labor and his or her
23 authorized representatives shall have the power and authority to enter any
24 place of employment, place of public assembly, or public building for the
25 purpose of collecting facts and statistics relating to the employment of
26 workers and of making inspections for the proper enforcement of all labor
27 laws of the state.

28
29 SECTION 5210. Arkansas Code § 11-2-117(c), concerning the duties of an
30 employer to provide a safe place of employment, is amended to read as
31 follows:

32 (c) If the Director of the ~~Department~~ Division of Labor or his or her
33 authorized representative finds that any machine, tool, or equipment, or any
34 part thereof, is in a dangerous condition, is not properly guarded, or is
35 dangerously placed, he or she shall attach to the machine, tool, or equipment
36 a notice warning all persons against its use and setting out in complete

1 detail the conditions that render the machine, tool, or equipment unfit for
2 service. The machine, tool, or equipment shall not be used until it is made
3 safe, the required safeguards or safety appliances or devices as set forth in
4 the certificate attached thereto have been fully corrected, and notice of the
5 correction is sent to the ~~Department~~ Division of Labor by registered mail,
6 accompanied by a certificate from a competent mechanic certifying correction
7 of the defects.

8
9 SECTION 5211. Arkansas Code § 11-2-118 is amended to read as follows:
10 11-2-118. Oaths, certifications, subpoenas, etc. – Enforcement by
11 contempt.

12 (a) The Director of the ~~Department~~ Division of Labor and any officer
13 of the ~~Department~~ Division of Labor designated by the director, in the
14 performance of any duty or the execution of any power prescribed by law,
15 shall have the power to administer oaths, certify to official acts, take and
16 cause to be taken depositions of witnesses, issue subpoenas, and compel the
17 attendance of witnesses and the production of papers, books, accounts,
18 payrolls, documents, records, and testimony.

19 (b) In case of failure of any person to comply with any subpoena
20 lawfully issued or on the refusal of any witness to produce evidence or to
21 testify to any matter regarding which he or she may be lawfully interrogated,
22 it shall be the duty of any court of competent jurisdiction or the judge
23 thereof, upon application of the director or any officer or agent of the
24 ~~department~~ division, to compel obedience by attachment proceedings for
25 contempt, as in the case of disobedience of the requirements of a subpoena
26 issued for the court or a refusal to testify therein.

27
28 SECTION 5212. Arkansas Code § 11-2-119 is amended to read as follows:

29 11-2-119. False statements made under oath deemed perjury.

30 Any employer or owner who shall knowingly testify falsely, under oath,
31 or shall knowingly make, give, or produce any false statements or false
32 evidence, under oath, to the Director of the ~~Department~~ Division of Labor or
33 his or her authorized representatives shall be deemed guilty of perjury.

34
35 SECTION 5213. Arkansas Code § 11-2-120 is amended to read as follows:

36 11-2-120. Annual report.

1 (a) The Director of the ~~Department~~ Division of Labor shall annually,
2 on or before January 1, file with the ~~Governor~~ Secretary of Labor and
3 Licensing a report covering the activities of the ~~Department~~ Divison of
4 Labor, accompanied by recommendations with reference to such changes in the
5 law, applying to and affecting industrial and labor conditions, as the
6 director may deem advisable.

7 (b) The report of the director shall be printed and distributed in
8 such manner as the ~~Governor~~ Secretary of the Department of Labor and
9 Licensing shall authorize.

10
11 SECTION 5214. Arkansas Code § 11-2-121 is amended to read as follows:
12 11-2-121. Agreements with government agencies.

13 (a) The Director of the ~~Department~~ Division of Labor is authorized to
14 enter into agreements with the United States Government and any and all other
15 state governments for assistance and cooperation in enforcing and
16 implementing state and federal laws and projects in fields related to the
17 ~~Department~~ Divison of Labor.

18 (b)(1) The ~~department~~ division may accept payment or reimbursement for
19 its services as provided by the acts of Congress or the legislature of any
20 other state.

21 (2) All payments or funds received by the ~~department~~ division
22 under this section shall be deposited into the State Treasury, to be expended
23 as provided by law.

24
25 SECTION 5215. Arkansas Code § 11-2-122(b), concerning the disclosure
26 of the availability of health benefits to employees, is amended to read as
27 follows:

28 (b) The notification shall be made at such time and in such manner as
29 prescribed by regulation promulgated by the Director of the ~~Department~~
30 Division of Labor.

31
32 SECTION 5216. Arkansas Code § 11-2-123(a), concerning the employment
33 training and placement programs for ex-offenders, is amended to read as
34 follows:

35 (a) In order to help facilitate the restoration of an ex-offender's
36 responsibility and self-sufficiency, the ~~Department~~ Division of Labor shall

1 work in conjunction with other appropriate state agencies, the private
2 sector, and labor organizations to promulgate rules for implementing
3 placement and training programs for ex-offenders.

4
5 SECTION 5217. Arkansas Code § 11-2-203 is amended to read as follows:

6 11-2-203. ~~Definitions~~ Definition.

7 For the purpose of this subchapter, unless the context otherwise
8 requires, the term

9 ~~(1) "Director" means the Director of the Department of Labor;~~

10 ~~(2) "Person person" means one (1) or more individuals, joint~~
11 ~~ventures, partnerships, associations, corporations, states, municipalities,~~
12 ~~business trusts, legal representatives, or any organized group of employees;~~

13 ~~(3) "Service" means the Arkansas Mediation and Conciliation~~
14 ~~Service of the Department of Labor; and~~

15 ~~(4) "State" means the State of Arkansas.~~

16
17 SECTION 5218. Arkansas Code § 11-2-204(a), concerning the confidential
18 records and information of the Arkansas Mediation and Conciliation Service,
19 is amended to read as follows:

20 (a) All files, reports, letters, memoranda, minutes, documents, or
21 other papers in the official custody of the Arkansas Mediation and
22 Conciliation Service or any of its employees, or any other information,
23 whether written or not, obtained in the course of any employee's official
24 duties, relating to or acquired in its or their official activities under the
25 labor laws of the state or the rules and regulations lawfully promulgated by
26 the Director of the ~~Department~~ Division of Labor, are confidential.

27
28 SECTION 5219. Arkansas Code § 11-2-205(b)(2), concerning the
29 compliance with subpoenas by the Arkansas Mediation and Conciliation Service,
30 is amended to read as follows:

31 (2) Immediately upon receipt of the subpoena, the mediator or
32 former mediator or employee should contact the Director of the ~~Department~~
33 Division of Labor, who shall immediately notify the staff attorneys of the
34 Department of Labor and Licensing of the state to ensure that the procedures
35 set forth in this subchapter will be followed. The director then shall
36 instruct the staff attorneys to appear in behalf of the mediator and protect

1 the service from any disclosure that violates the provisions contained in
2 this subchapter.

3

4 SECTION 5220. Arkansas Code § 11-2-206(a)(1), concerning judicial
5 review of orders of the Arkansas Mediation and Conciliation Service, is
6 amended to read as follows:

7 (a)(1) The mediator or the Director of the ~~Department~~ Division of
8 Labor on his or her behalf or the Attorney General on his or her behalf may
9 obtain a review of the order requiring him or her to testify.

10

11 SECTION 5221. Arkansas Code § 11-3-203(a)(3), concerning medical
12 examination as a condition for employment, is amended to read as follows:

13 (3) Notwithstanding subdivision (a)(1) of this section, if an
14 employee tests positive for an illegal drug as defined by rule of the
15 ~~Department~~ Division of Labor, the employer and employee may agree in writing
16 who will bear the cost of future drug tests or screens required as a
17 condition of continued employment.

18

19 SECTION 5222. Arkansas Code § 11-3-203(c), concerning medical
20 examination as a condition for employment, is amended to read as follows:

21 (c) The Director of the ~~Department~~ Division of Labor shall administer
22 and enforce this section, including without limitation, by:

23 (1) Adopting administrative rules; and

24 (2) Demanding payment and seeking recovery in a court of
25 competent jurisdiction for charges, fees, wage deductions, or other payments
26 made by employees as a result of an employer's violation of this section.

27

28 SECTION 5223. Arkansas Code § 11-4-203(1), concerning the definition
29 of "director" under the laws governing minimum wages, is repealed.

30 ~~(1) "Director" means the Director of the Department of Labor;~~

31

32 SECTION 5224. Arkansas Code § 11-4-203(3)(R)(ii)(b), concerning the
33 definition of "employee" under the laws governing minimum wages, is amended
34 to read as follows:

35 (b) The retroactive effect of this subdivision

36 (3)(R) does not impose liability on the ~~Department~~ Division of Labor or on an

1 employee to repay damages, back wages, civil money penalties, or other moneys
2 collected or paid by the ~~department~~ division or received by an employee;

3
4 SECTION 5225. Arkansas Code § 11-4-206(a)(1), concerning the penalties
5 under the laws governing minimum wages, is amended to read as follows:

6 (a)(1) Any employer who willfully hinders or delays the Director of
7 the ~~Department~~ Division of Labor or his or her authorized representative in
8 the performance of his or her duties in the enforcement of this subchapter,
9 willfully refuses to admit the director or his or her authorized
10 representative to any place of employment, willfully fails to make, keep, and
11 preserve any records as required under the provisions of this subchapter,
12 willfully falsifies any such record, willfully refuses to make the record
13 accessible to the director or his or her authorized representative upon
14 demand, willfully refuses to furnish a sworn statement of the record or any
15 other information required for the proper enforcement of this subchapter to
16 the director or his or her authorized representative upon demand, willfully
17 fails to post a summary of this subchapter or a copy of any applicable
18 regulations as required by § 11-4-216, pays or agrees to pay minimum wages at
19 a rate less than the rate applicable under this subchapter, or otherwise
20 willfully violates any provision of this subchapter or of any regulation
21 issued under this subchapter shall be deemed in violation of this subchapter
22 and shall be subject to a civil penalty of not less than fifty dollars
23 (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

24
25 SECTION 5226. Arkansas Code § 11-4-206(g), concerning the penalties
26 under the laws governing minimum wages, is amended to read as follows:

27 (g) Sums collected under this section shall be paid into the
28 Department of Labor and Licensing Special Fund.

29
30 SECTION 5227. Arkansas Code § 11-4-209(a), concerning the powers and
31 duties of the Director of the Department of Labor, is amended to read as
32 follows:

33 (a) For any occupation, the Director of the ~~Department~~ Division of
34 Labor shall make and revise such administrative regulations, including
35 definitions of terms, as he or she may deem appropriate to carry out the
36 purposes of this subchapter or necessary to prevent the circumvention or

1 evasion thereof and to safeguard the minimum wage rates established.

2

3 SECTION 5228. The introductory language of Arkansas Code § 11-4-
4 211(g), concerning overtime, is amended to read as follows:

5 (g) By rule or regulation, the Director of the ~~Department~~ Division of
6 Labor may authorize employment in excess of the standard set by subsection
7 (a) of this section or may authorize the calculation of overtime on a basis
8 other than the regular rate of pay required by subsection (a) of this section
9 for employment:

10

11 SECTION 5229. Arkansas Code § 11-4-212(b), concerning the allowance
12 for gratuities, is amended to read as follows:

13 (b) In determining whether an employee received in gratuities the
14 amount claimed, the Director of the ~~Department~~ Division of Labor may require
15 the employee to show to the satisfaction of the director that the actual
16 amount of gratuities received by him or her during any work week was less
17 than the amount determined by the employer as the amount by which the wage
18 paid the employee was deemed to be increased under this section.

19

20 SECTION 5230. Arkansas Code § 11-4-213(b), concerning the allowance
21 for furnishing board, lodging, apparel, and other items, is amended to read
22 as follows:

23 (b) In determining whether an employee received board, lodging,
24 apparel, or other items and services having a reasonable value of less than
25 thirty cents (30¢) per hour during any work week, the Director of the
26 ~~Department~~ Division of Labor may require the employee to show to the
27 satisfaction of the director that the reasonable value of items and services
28 received by the employee was less than the amount determined by the employer
29 as the amount by which the wage paid the employee was deemed to be increased
30 under this section.

31

32 SECTION 5231. Arkansas Code § 11-4-214(a), concerning disabled
33 workers, is amended to read as follows:

34 (a) Any person handicapped by lack of skill, age, or physical or
35 mental deficiency or injury in any way that his or her earning capacity is
36 impaired shall be granted a temporary special exemption license or permit

1 authorizing the employment of the person at wages lower than the minimum
2 prescribed in this subchapter until such time as the Director of the
3 ~~Department~~ Division of Labor shall hold a hearing and prescribe regulations
4 regarding exemption of these persons as authorized in this section.
5

6 SECTION 5232. Arkansas Code § 11-4-215(a), concerning learners,
7 apprentices, and full-time students, is amended to read as follows:

8 (a) For any occupation, the Director of the ~~Department~~ Division of
9 Labor may provide, by regulation, after a public hearing at which any person
10 may be heard, for the employment in the occupation of learners, apprentices,
11 and full-time students at wages lower than the minimum wage rate provided in
12 § 11-4-210(b) as he or she may find appropriate to prevent curtailment of
13 opportunities for employment and to safeguard the minimum wage rate under
14 this subchapter.
15

16 SECTION 5233. Arkansas Code § 11-4-216(a), concerning the posting of
17 laws, is amended to read as follows:

18 (a) Every employer subject to any provisions of this subchapter or of
19 any regulations issued under this subchapter shall keep a summary of this
20 subchapter, approved by the Director of the ~~Department~~ Division of Labor, and
21 copies of any applicable regulations issued under this subchapter, or a
22 summary of the regulations approved by the director, posted in a conspicuous
23 and accessible place in or about the premises wherein any person subject
24 thereto is employed.
25

26 SECTION 5234. Arkansas Code § 11-4-217(a), concerning records kept by
27 employers, is amended to read as follows:

28 (a) Every employer subject to any provision of this subchapter or of
29 any regulation issued under this subchapter shall make and keep for a period
30 of not less than three (3) years in or about the premises wherein any
31 employee is employed a record of the name, address, and occupation of each of
32 his or her employees, the rate of pay, the amount paid each pay period to
33 each employee, and such other information as the Director of the ~~Department~~
34 Division of Labor shall prescribe by regulation as necessary or appropriate
35 for the enforcement of the provisions of this subchapter or of the
36 regulations under this subchapter.

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SECTION 5235. Arkansas Code § 11-4-218(d)(1), concerning an employee's remedies, is amended to read as follows:

(d)(1) The Director of the ~~Department~~ Division of Labor shall have the authority to fully enforce this subchapter by instituting legal action to recover any wages that he or she determines to be due to employees under this subchapter.

SECTION 5236. Arkansas Code § 11-4-219(b), concerning judicial review of an administrative regulation, is amended to read as follows:

(b) A copy of the petition shall be served upon the Director of the ~~Department~~ Division of Labor.

SECTION 5237. Arkansas Code § 11-4-220(a), concerning the filing of claims with the Director of the Department of Labor, is amended to read as follows:

(a) Any employee covered by this subchapter may file a claim with the Director of the ~~Department~~ Division of Labor charging that an employer has violated § 11-4-210 or § 11-4-211 as to any employee or other person.

SECTION 5238. Arkansas Code § 11-4-303 is amended to read as follows:

11-4-303. Director of ~~Department~~ Division of Labor to conduct hearing.

(a) Upon application of either employer or employee, the Director of the ~~Department~~ Division of Labor or any person authorized by the director shall have authority to inquire into, hear, and decide disputes arising from wages earned and shall allow or reject any deduction from wages.

(b) Upon motion of either employer or employee, the amount found to be due may be paid in the presence of the director or person designated by him or her, and after final hearing by the director or person appointed by him or her, he or she shall file in the office of the ~~Department~~ Division of Labor a copy of findings and facts and his or her award.

(c) The amount of the award of the director shall be presumed to be the amount of wages, if any, due and unpaid to the employee.

SECTION 5239. Arkansas Code § 11-4-304 is amended to read as follows:

11-4-304. Judicial review.

1 (a) If either employer or employee shall fail or refuse to accept the
2 findings of the Director of the ~~Department~~ Division of Labor, then either
3 shall have the right to proceed at law as provided.

4 (b) If the claim is meritorious, and if within the discretion of the
5 director the claimant's lack of financial ability entitles him or her to the
6 services of the ~~department~~ Division of Labor, the director in the name of the
7 State of Arkansas, for the benefit of the claimant, may institute action in
8 any court of competent jurisdiction, without paying costs or giving bond for
9 costs, and shall be entitled to all remedies available to litigants in the
10 prosecution of actions and their enforcement, if successful.

11 (c) Nothing in this section shall be construed so as to relieve an
12 unsuccessful defendant from paying costs.

13
14 SECTION 5240. Arkansas Code § 11-4-306 is amended to read as follows:

15 11-4-306. Fees prohibited.

16 The Director of the ~~Department~~ Division of Labor or any person
17 designated by him or her shall not charge or be permitted to accept any fees
18 or remuneration whatsoever from any person for the performance of any duties
19 under this subchapter.

20
21 SECTION 5241. Arkansas Code § 11-4-402(b)(3), concerning payments made
22 in currency and discounts for advance payment, is amended to read as follows:

23 (3) This subsection ~~(b)~~ does not apply to any demand or claim by
24 the ~~Department~~ Division of Labor.

25
26 SECTION 5242. Arkansas Code § 11-4-608 is amended to read as follows:

27 11-4-608. Penalties for violation of §§ 11-4-607 – 11-4-612.

28 Any employer who violates any provision of §§ 11-4-607 – 11-4-612, or
29 who discharges or in any other manner discriminates against any employee
30 because the employee has made a complaint to his or her employer, the
31 Director of the ~~Department~~ Division of Labor, or any other person, has
32 instituted or caused to be instituted any proceedings under or related to §§
33 11-4-607 – 11-4-612, or has testified or is about to testify in any such
34 proceeding shall be fined not more than five hundred dollars (\$500) nor
35 imprisoned more than one (1) year, or both.

36

1 SECTION 5243. Arkansas Code § 11-4-609 is amended to read as follows:
2 11-4-609. Administration of §§ 11-4-607 – 11-4-612.

3 The Director of the ~~Department~~ Division of Labor shall have the power
4 and it shall be his or her duty to carry out and administer the provisions of
5 §§ 11-4-607 – 11-4-612.
6

7 SECTION 5244. Arkansas Code § 11-4-611(b)(4), concerning an action to
8 collect unpaid wages, is amended to read as follows:

9 (4) At the request of any employee paid less than the wage to
10 which he or she is entitled under §§ 11-4-607 – 11-4-612, the Director of the
11 ~~Department~~ Division of Labor may take an assignment of the wage claim in
12 trust for the employee and shall bring any legal action necessary to collect
13 the claim. The director shall not be required to pay any court costs in
14 connection with the action.
15

16 SECTION 5245. Arkansas Code § 11-5-101(c), concerning the suitable
17 temperature, humidity, and air space required, is amended to read as follows:

18 (c) In every room, apartment, or building used as a factory, mill,
19 workshop, mercantile establishment, laundry, or other place of employment,
20 sufficient air space shall be provided for every employee which in the
21 judgment of the Director of the ~~Department~~ Division of Labor or of his or her
22 deputies and inspectors is sufficient for the employees health and welfare.
23

24 SECTION 5246. Arkansas Code § 11-5-107(a), concerning the inspection
25 of a working place, is amended to read as follows:

26 (a) The Director of the ~~Department~~ Division of Labor or any of his or
27 her deputies or inspectors shall have the right to enter any factory, mill,
28 workshop, mercantile establishment, laundry, or other establishment where
29 three (3) or more persons are employed for the purpose of making inspections
30 and enforcing the provisions of §§ 11-5-101 – 11-5-111.
31

32 SECTION 5247. Arkansas Code § 11-5-108 is amended to read as follows:
33 11-5-108. Order to correct conditions – Issuance.

34 (a) The Director of the ~~Department~~ Division of Labor or any of his or
35 her deputies or inspectors may issue a written order to the owner, manager,
36 superintendent, or other person in control or management of the place or

1 establishment for the correction of any condition caused or permitted in or
2 about the place or establishment in violation of any of the requirements of
3 §§ 11-5-101 – 11-5-111, or of any condition, practice, plan, or method used
4 therein or thereabouts in supposed compliance with any requirement of §§ 11-
5 5-101 – 11-5-111 but which are found to be inadequate or insufficient, in any
6 respect, to comply therewith, and shall state in the order how the
7 conditions, practices, plans, or methods, in any case, shall be corrected and
8 the time within which they shall be corrected, a reasonable time being given
9 in the order therefor.

10 (b) One (1) copy of the order shall be delivered to the owner,
11 manager, superintendent, or other person in control or management of the
12 place or establishment, and one (1) copy shall be filed in the office of the
13 ~~Department~~ Division of Labor.

14
15 SECTION 5248. Arkansas Code § 11-5-109(b)(1), concerning the
16 conclusiveness of an order to correct conditions, is amended to read as
17 follows:

18 (b)(1) The owner or owners, manager, superintendent, or other person
19 in control or management of any place or establishment covered by this
20 chapter, and directly affected by any finding or order provided for in §§ 11-
21 5-107 and 11-5-108, may, within fifteen (15) days from the date of the
22 delivery to him, her, or them of a copy of the order as provided for in §§
23 11-5-107 and 11-5-108, file a petition setting forth the particular cause of
24 objection to the order and findings in a court of competent jurisdiction
25 against the Director of the ~~Department~~ Division of Labor.

26
27 SECTION 5249. Arkansas Code § 11-5-110(a), concerning the penalties
28 for noncompliance with an order to correct conditions, is amended to read as
29 follows:

30 (a) Upon the failure or refusal of the owner, manager, superintendent,
31 or other person in control or management of a place or establishment, to
32 comply with an order issued pursuant to § 11-5-108 within the time therein
33 specified, unless it has been attacked and suspended or set aside as provided
34 for in § 11-5-109, the Director of the ~~Department~~ Division of Labor or his or
35 her deputy or inspectors shall have full authority and power to close the
36 place or establishment, or any part of it that may be in an unsanitary or

1 dangerous condition or contain immoral influences in violation of any
2 requirement of §§ 11-5-101 – 11-5-110 or order, until such time as the
3 condition, practice, or method is corrected.

4
5 SECTION 5250. Arkansas Code § 11-5-112(b)(1), concerning the
6 requirement of separate toilet rooms for males and females, is amended to
7 read as follows:

8 (b)(1) The Director of the ~~Department~~ Division of Labor shall enforce
9 the provisions of this section and shall give notice in writing to employers
10 violating it.

11
12 SECTION 5251. Arkansas Code § 11-5-307(a)(1), concerning a
13 notification of an overhead electrical line or conductor, is amended to read
14 as follows:

15 (a)(1) When any person, firm, or corporation desires to temporarily
16 carry on any function, activity, work, or operation in closer proximity to
17 any energized overhead electrical line or conductor than permitted by this
18 subchapter, the person or persons responsible for the work to be done shall
19 promptly notify the Director of the ~~Department~~ Division of Labor and the
20 operator or owner of the electrical lines in writing of the work to be
21 performed and make appropriate arrangements with the operator of the
22 electrical lines before proceeding with any work which would impair the
23 clearances required by this subchapter.

24
25 SECTION 5252. Arkansas Code § 11-5-308(c)(4), concerning prohibited
26 acts, is amended to read as follows:

27 (4) In addition to the requirements of subdivisions (c)(1)(A)
28 and (B) of this section, there shall be installed an insulated cage-type
29 guard or protective device, approved by the Director of the ~~Department~~
30 Division of Labor, about the boom or arm of all equipment, except backhoes or
31 dippers. Where the equipment includes a lifting hook device also approved by
32 the director, all lifting lines shall be equipped with insulator links on the
33 lift hook connection.

34
35 SECTION 5253. Arkansas Code § 11-6-103(b), resulting from Initiated
36 Act 1 of 1914 and concerning the disposition of fines and penalties, is

1 amended to read as follows:

2 (b) The Director of the ~~Department~~ Division of Labor shall determine
3 the amount of such penalty and shall consider the appropriateness of such
4 penalty to the size of the business and the gravity of the violation.

5

6 SECTION 5254. Arkansas Code § 11-6-103(e), resulting from Initiated
7 Act 1 of 1914 and concerning the disposition of fines and penalties, is
8 amended to read as follows:

9 (e) Sums collected under this section shall be paid into the
10 Department of Labor and Licensing Special Fund.

11

12 SECTION 5255. Arkansas Code § 11-6-107(b)(1), resulting from Initiated
13 Act 1 of 1914 and concerning prohibitions against certain kinds and places of
14 work for children under sixteen (16) years of age, is amended to read as
15 follows:

16 (b)(1) The Director of the ~~Department~~ Division of Labor may, from time
17 to time after a hearing duly had, determine what other occupations are
18 sufficiently dangerous to the life or limb or injurious to the health or
19 morals of children under sixteen (16) years to justify their exclusion
20 therefrom. No child under sixteen (16) years of age shall be employed or
21 permitted to work in any occupation thus determined to be dangerous or
22 injurious.

23

24 SECTION 5256. Arkansas Code § 11-6-109(a), resulting from Initiated
25 Act 1 of 1914 and concerning children under age sixteen (16) years and the
26 requirement of an employment certificate, is amended to read as follows:

27 (a) No person, firm, or corporation shall employ or permit any child
28 under sixteen (16) years to work in or in connection with any establishment
29 or occupation unless the person, firm, or corporation employing the child
30 procures and keeps on file, accessible to the ~~Department~~ Division of Labor
31 and the ~~Department of Education~~ Division of Elementary and Secondary
32 Education, or local school officials, an employment certificate as provided
33 in this section.

34

35 SECTION 5257. Arkansas Code § 11-6-109(b)(1), resulting from Initiated
36 Act 1 of 1914 and concerning children under age sixteen (16) years and the

1 requirement of an employment certificate, is amended to read as follows:

2 (b)(1) The employment certificate shall be issued only by the Director
3 of the ~~Department~~ Division of Labor.

4
5 SECTION 5258. Arkansas Code § 11-6-111(a), resulting from Initiated
6 Act 1 of 1914 and concerning the prosecution of violators and the right to
7 inspect a workplace, is amended to read as follows:

8 (a) The Director of the ~~Department~~ Division of Labor or his or her
9 designee shall have the right to enter any building or premises for the
10 purpose of inspection to ascertain whether any child is employed or permitted
11 to work in violation of the provisions of this subchapter.

12
13 SECTION 5259. Arkansas Code § 11-6-115(a), concerning domestic labor
14 and child care in connection with church functions permitted, is amended to
15 read as follows:

16 (a) As used in this section, "domestic labor" means any occasional,
17 irregular, or incidental work related to and in or around private residences,
18 including, but not limited to babysitting, pet sitting, similar household
19 chores, and manual yard work. This definition specifically excludes
20 industrial homework, work for a third party such as a sitting service, and
21 any activity determined by the Director of the ~~Department~~ Division of Labor
22 to be hazardous pursuant to the provisions of § 11-6-107(b).

23
24 SECTION 5260. Arkansas Code § 11-7-204(c), concerning the appointment,
25 term, and qualifications of the State Mine Inspector, is amended to read as
26 follows:

27 (c) The Governor ~~alone~~ and the Secretary of the Department of Labor
28 and Licensing shall have the power to remove a mine inspector for cause.

29
30 SECTION 5261. Arkansas Code § 11-7-204(e), concerning the appointment,
31 term, and qualifications of the State Mine Inspector, is amended to add an
32 additional subsection to read as follows:

33 (e) The State Mine Inspector shall report to the Secretary of Labor
34 and Licensing and shall be an employee of the Department of Labor and
35 Licensing.

36

1 SECTION 5262. Arkansas Code § 11-7-207(g), concerning the Assistant
2 State Mine Inspector, is amended to add an additional subsection to read as
3 follows:

4 (g) The Assistant State Mine Inspector shall report to the State Mine
5 Inspector and shall be an employee of the Department of Labor and Licensing.

6
7 SECTION 5263. Arkansas Code § 11-7-402(a), concerning the power of the
8 Director of the Department of Labor to administer oaths, is amended to read
9 as follows:

10 (a) To more effectively carry out the intentions and purposes of this
11 section and §§ 11-7-409 – 11-7-414, the Director of the ~~Department~~ Division
12 of Labor may administer oaths to all persons who are applicants, or who may
13 vouch, in any manner, for the previous service or qualifications of an
14 applicant to obtain for him or her a certificate under this section and §§
15 11-7-409 – 11-7-414.

16
17 SECTION 5264. Arkansas Code § 11-7-403(a)-(c), concerning employee
18 qualification, are amended to read as follows:

19 (a) No fire bosses, hoisting engineers, or mine foremen shall be
20 employed in any mine in the State of Arkansas unless they have been examined
21 by the ~~Department~~ Division of Labor or the ~~department~~ division determines
22 that comparable testing criteria have been met in another jurisdiction.

23 (b) No one shall act as State Mine Inspector or Assistant State Mine
24 Inspector unless he or she has been examined by the ~~department~~ division, as
25 provided in this section.

26 (c) Applicants for examination shall be able to read and write the
27 English language and shall satisfy the ~~department~~ division that they are of
28 good moral character and are not users of intoxicating liquors and are
29 citizens of the United States.

30
31 SECTION 5265. Arkansas Code § 11-7-403(f), concerning the payment of
32 fees for examination, is amended to read as follows:

33 (f)(1) Applicants for certificates as mine inspector shall, before
34 examination, pay to the ~~department~~ division a fee of four dollars (\$4.00)
35 and, if successful, a further fee of six dollars (\$6.00) for a certificate.

36 (2) Applicants for certificates as assistant mine inspector

1 shall, before examination, pay to the ~~department~~ division a fee of three
2 dollars (\$3.00) and, if successful, a further fee of four dollars and fifty
3 cents (\$4.50) for a certificate.

4 (3) Applicants for certificates as mine foremen and hoisting
5 engineers shall, before examination, pay to the ~~department~~ division a fee of
6 two dollars (\$2.00) and, if successful, a further fee of three dollars
7 (\$3.00) for a certificate.

8 (4) Other applicants shall, before examination, pay to the
9 ~~department~~ division of examiners a fee of one dollar (\$1.00) and, if
10 successful, a further fee of two dollars (\$2.00) for a certificate.

11
12 SECTION 5266. Arkansas Code § 11-7-404(a)(1), concerning the
13 certificate and grades of fire bosses and mine foremen, is amended to read as
14 follows:

15 (a)(1) The Director of the ~~Department~~ Division of Labor shall grant
16 certificates after examination by the ~~Department~~ Division of Labor or a
17 determination by the ~~department~~ division that the testing requirements have
18 been satisfied in another jurisdiction.

19
20 SECTION 5267. Arkansas Code § 11-7-405 is amended to read as follows:

21 11-7-405. Fire bosses, mine foremen, etc. – Duplicate certificate.

22 In case of loss or destruction of a certificate, the Director of the
23 ~~Department~~ Division of Labor, upon satisfactory proof of the loss or
24 destruction, may issue a duplicate on the payment of the sum of one dollar
25 (\$1.00).

26
27 SECTION 5268. Arkansas Code § 11-7-406(a), concerning the revocation
28 of certificates, is amended to read as follows:

29 (a) All certificates issued pursuant to this subchapter may be revoked
30 by the Director of the ~~Department~~ Division of Labor after a hearing upon due
31 notice to the holder of the certificate and upon written charges preferred by
32 the director or by some interested person for violation of this section and
33 §§ 11-7-403 – 11-7-405 and 11-7-407.

34
35 SECTION 5268. Arkansas Code § 11-7-410(a), concerning coal miners'
36 certificates, is amended to read as follows:

1 (a) It shall be unlawful for any person to work as a coal miner in any
2 coal mine in this state without first having a certificate of qualification
3 and competency to do so from the Director of the ~~Department~~ Division of
4 Labor, nor shall any person, firm, or corporation employ as a coal miner in
5 his or her coal mine in the State of Arkansas any person who does not hold a
6 certificate, nor shall any mine foreman, overseer, or superintendent permit
7 or suffer any person to be employed under him or her, or in any coal mine
8 under his or her charge or supervision, as a coal miner in this state, except
9 as provided in this act, who does not hold a certificate of qualification.

10
11 SECTION 5270. Arkansas Code § 11-7-411(a), concerning coal miners'
12 examinations, qualifications, and certificates, is amended to read as
13 follows:

14 (a) The Director of the ~~Department~~ Division of Labor shall hold
15 sufficient examinations each year in places to be determined by the director,
16 which, in his or her opinion, will be most convenient to applicants desiring
17 to engage in the business of coal mining.

18
19 SECTION 5271. Arkansas Code § 11-7-412(a), concerning coal miners'
20 temporary permits and grandfather clause, is amended to read as follows:

21 (a) A person making application for a coal miner's certificate of
22 competency and qualification shall be granted a temporary permit to work
23 until such time as an examination is held by the Director of the ~~Department~~
24 Division of Labor and if, in the judgment of the director, he or she is so
25 qualified.

26
27 SECTION 5272. Arkansas Code § 11-7-414 is amended to read as follows:

28 11-7-414. Coal miners – Duplicate certificate – Revocation of
29 certificate.

30 The Director of the ~~Department~~ Division of Labor shall possess powers
31 to issue duplicate certificates and revoke certificates in all cases as
32 provided in §§ 11-7-405 and 11-7-406.

33
34 SECTION 5273. Arkansas Code § 11-9-205(b)(1) and (2), resulting from
35 Initiated Act 4 of 1948, concerning the administration of the Workers'
36 Compensation Law, are amended to read as follows:

1 (b)(1) The commission may appoint as many persons as may be necessary
2 to be administrative law judges and in addition may appoint such examiners,
3 rate experts, investigators, medical examiners, clerks, and other employees
4 as it deems necessary to effectuate the provisions of this chapter, provided
5 that the appointment of all rate experts shall be made by the ~~Insurance~~
6 ~~Commissioner~~ Secretary of the Department of Labor and Licensing, whose duty
7 it is to approve the rates charged.

8 (2) Rate experts shall be considered employees of the commission
9 and the ~~Insurance Commissioner~~ Department of Labor and Licensing and shall be
10 paid from the Workers' Compensation Fund.

11
12 SECTION 5274. Arkansas Code § 11-9-207(a)(12), resulting from
13 Initiated Act 4 of 1948 and concerning the powers and duties of the Workers'
14 Compensation Commission, is amended to read as follows:

15 (12) To make available all records in connection with all cases
16 of personal injury to the ~~Director~~ Secretary of the Department of Labor and
17 Licensing. The ~~director~~ secretary may propose rules for the prevention of
18 injuries and transmit the rules to the commission. The commission may
19 recommend proposed rules for prevention of injuries to the ~~director~~
20 secretary;

21
22 SECTION 5275. Arkansas Code § 11-9-209, resulting from Initiated Act 4
23 of 1948, is amended to read as follows:

24 11-9-209. Statistical data collection.

25 (a) The Workers' Compensation Commission shall publish annually, on an
26 aggregate basis, information pertaining to the distribution of workers'
27 compensation insurance premiums, losses, expenses, and net income to be
28 compiled from reports required to be filed with the ~~Insurance Commissioner~~
29 Secretary of the Department of Labor and Licensing pursuant to § 23-63-216,
30 as amended, or any similar information required to be filed by the ~~Insurance~~
31 ~~Commissioner~~ secretary regarding workers' compensation insurance.

32 (b) The commission shall also publish in that same annual report
33 information regarding aggregate workers' compensation benefit distribution to
34 claimants, medical providers, and attorneys if that specific information or
35 similar information becomes available from revised or additional reporting
36 requirements that may be required by the ~~Insurance Commissioner~~ secretary.

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SECTION 5276. Arkansas Code § 11-9-409(a)(2)-(9), concerning safety and health loss control consultative services, are amended to read as follows:

(2) The division shall collect and serve as a repository for statistical information on workers' health and safety. In cooperation with and with the assistance of the Department of Labor and Licensing and the State Insurance Department, the division shall analyze and use the information to identify and assign priorities to safety needs and to better coordinate the safety services provided by public or private organizations, including insurance carriers. In cooperation with and with the assistance of the Department of Labor and Licensing and the State Insurance Department, the division shall promote workers' health and safety through educational programs and other innovative programs developed by the division.

(3) In cooperation with and with the assistance of the Department of Labor and Licensing and the State Insurance Department, the division shall coordinate or supervise the collection of information relating to job safety.

(4) The Chair of the Workers' Compensation Commission, the ~~Director~~ Secretary of the Department of Labor and Licensing, and the Insurance Commissioner shall function as an advisory committee to resolve questions regarding duplication of efforts, assignment of new programs, and other matters that need cooperation and coordination.

(5)(A) In cooperation with and with the assistance of the Department of Labor and Licensing and the State Insurance Department, the division shall publish or procure and issue educational books, pamphlets, brochures, films, videotapes, and other informational and educational material. Specific educational material shall be directed to high-risk industries and jobs and shall specifically address means and methods of avoiding high frequency but preventable workers' injuries. Other educational material shall be directed to business and industry generally and shall specifically address means and methods of avoiding common workers' injuries.

(B) Specific decisions as to what issues and problems should be addressed by such information shall be made by the division in cooperation and with the assistance of the Department of Labor and Licensing and the State Insurance Department and with commission approval after

1 assigning appropriate priorities based on frequency of injuries, degree of
2 hazard, severity of injuries, and similar considerations.

3 (C) Such educational materials shall include specific
4 references to the requirements of state and federal laws and regulations, to
5 recommendations and practices of business, industry, and trade associations,
6 and, where needed, to recommended work practices based on recommendations
7 made by the division, in cooperation and with the assistance of the
8 Department of Labor and Licensing and the State Insurance Department, for the
9 prevention of injury.

10 (6) In cooperation with and with the assistance of the
11 Department of Labor and Licensing and the State Insurance Department, the
12 division shall cooperate with employers and employees to develop means and
13 methods of educating employees and employers with regard to workplace safety.

14 (7) In cooperation with and with the assistance of the
15 Department of Labor and Licensing and the State Insurance Department, the
16 division shall encourage other entities to develop safety courses, safety
17 plans, and safety programs.

18 (8) In cooperation with and with the assistance of the
19 Department of Labor and Licensing and the State Insurance Department, the
20 division shall certify safe employers to provide peer review safety programs.

21 (9) In cooperation with and with the assistance of the
22 Department of Labor and Licensing and the State Insurance Department, the
23 division shall advise insurance carrier loss control service organizations of
24 hazard classifications, specific employers, industries, occupations, or
25 geographic regions to which loss control services should be directed or of
26 the identity and types of injuries or occupational diseases for prevention of
27 the same to which loss control services should be directed and shall advise
28 insurance carrier loss control service organizations of safety needs and
29 priorities recommended by the division in cooperation with and with the
30 assistance of the Department of Labor and Licensing and the State Insurance
31 Department.

32

33 SECTION 5277. Arkansas Code § 11-9-409(b)(1), concerning safety and
34 health loss control consultative services, is amended to read as follows:

35 (b) Job Safety Information System.

36 (1) In cooperation with and with the assistance of the

1 Department of Labor and Licensing and the State Insurance Department, the
2 division shall establish and maintain a job safety information system.

3
4 SECTION 5278. Arkansas Code § 11-9-409(b)(4) and (5), concerning
5 safety and health loss control consultative services, are amended to read as
6 follows:

7 (4) In cooperation with and with the assistance of the
8 Department of Labor and Licensing and the State Insurance Department, the
9 division is authorized, empowered, and directed to obtain, from any state
10 agency, data and statistics, including those compiled for the purpose of rate
11 making.

12 (5) The division shall consult the Department of Labor and
13 Licensing and any other affected state agencies in the design of data
14 information and retrieval systems that will accomplish the mutual purposes of
15 those agencies and of the division.

16
17 SECTION 5279. Arkansas Code § 11-9-409(c)(1)(A), concerning safety and
18 health loss control consultative services, is amended to read as follows:

19 (1)(A) In cooperation with and with the assistance of the
20 Department of Labor and Licensing and the State Insurance Department, the
21 division shall develop a program, including injury frequency, to identify
22 extra-hazardous employers. The term "extra-hazardous employer" includes an
23 employer whose injury frequencies substantially exceed those that may
24 reasonably be expected in that employer's business or industry, an employer
25 whose experience modifier is identified by the commission as too high, and
26 such other employers as may, following a public hearing, be identified as
27 extra-hazardous.

28
29 SECTION 5280. Arkansas Code § 11-9-409(c)(2)(A), concerning safety and
30 health loss control consultative services, is amended to read as follows:

31 (2)(A) An employer who receives notification under subdivision
32 (c)(1)(B) of this section must obtain a safety consultation within thirty
33 (30) days from the Department of Labor and Licensing, the employer's
34 insurance carrier, or another professional source approved by the division
35 for that purpose.

36

1 SECTION 5281. Arkansas Code § 11-9-409(d)(4), concerning safety and
2 health loss control consultative services, is amended to read as follows:

3 (4) In cooperation with and with the assistance of the
4 Department of Labor and Licensing and the State Insurance Department, the
5 division shall conduct inspections to determine the adequacy of the accident
6 prevention services required by subdivision (d)(1) of this section at least
7 every two (2) years for each insurance company writing workers' compensation
8 insurance in Arkansas.

9
10 SECTION 5282. Arkansas Code § 11-9-503(a)(1), resulting from Initiated
11 Act 4 of 1948 and concerning a violation of safety provisions, is amended to
12 read as follows:

13 (a)(1) Notwithstanding any other definition of extra-hazardous
14 employer as provided by § 11-9-409(c), any employer who fails to utilize the
15 consultative safety services available through the ~~Department~~ Division of
16 Labor, its own insurance carrier, or a private safety consultant shall be
17 identified as an extra-hazardous employer if it is established by a
18 preponderance of the evidence that an injury or death is caused in
19 substantial part by the failure of the employer to comply with any Arkansas
20 statute or official regulation pertaining to the health or safety of
21 employees or fails to follow safety consultant recommendations.

22
23 SECTION 5283. The introductory language of Arkansas Code § 11-11-
24 101(a), concerning recruitment of labor by foreign labor agents, is amended
25 to read as follows:

26 (a) No foreign labor agent, labor bureau or employment agency, or any
27 other person shall enter this state and attempt to hire, induce, or take from
28 this state any labor, singularly or in groups, for any purpose, whether or
29 not a fee or charge is extracted from the worker, without first applying to
30 the Director of the ~~Department~~ Division of Labor for a license to do so and
31 filing with the director:

32
33 SECTION 5284. Arkansas Code § 11-11-202(3) and (4), concerning
34 definitions under the laws governing private employment agencies, are
35 repealed.

36 ~~(3) "Department" means the Department of Labor;~~

1 ~~(4) "Director" means the Director of the Department of Labor;~~

2
3 SECTION 5285. Arkansas Code § 11-11-203(a), concerning penalties under
4 the laws governing private employment agencies, is amended to read as
5 follows:

6 (a) The Director of the ~~Department~~ Division of Labor shall have
7 authority to impose a fine of not less than twenty-five dollars (\$25.00) nor
8 more than five hundred dollars (\$500) for violation of the provisions of this
9 subchapter by an employment agency or its employees or agents.

10
11 SECTION 5286. Arkansas Code § 11-11-204 is amended to read as follows:
12 11-11-204. Director and ~~department~~ division – Powers and duties.

13 (a) It shall be the duty of the ~~Department~~ Division of Labor, and it
14 shall have the power, jurisdiction, and authority to administer and enforce
15 the provisions of this subchapter.

16 (b) The Director of the ~~Department~~ Division of Labor shall have the
17 power, jurisdiction, and authority to issue licenses to employment agencies,
18 agency managers, and counselors and to refuse to issue, revoke, or suspend
19 the licenses when, after due investigation, and in compliance with the
20 procedures set forth in §§ 11-11-221 and 11-11-222, the director finds that
21 the applicant is for good and sufficient cause unfit to be an employment
22 agent, agency manager, or counselor within the meaning of this subchapter or
23 any rules, regulations, or orders lawfully promulgated under this subchapter.

24 (c)(1) Complaints against any person, employment agent, agency
25 manager, or counselor may be made to the ~~department~~ division orally or in
26 writing.

27 (2) The director shall have the power to compel attendance of
28 witnesses by issuance of subpoenas, administer oaths, direct production of
29 documents and records, and direct taking of testimony and evidence concerning
30 all matters within the jurisdiction of the ~~department~~ division.

31 (3) The director may order testimony to be taken by deposition
32 in any proceeding pending before the ~~department~~ division at any stage of the
33 proceeding.

34 (4) The director or his or her duly authorized agent shall at
35 all reasonable times have access to, for the purpose of examination and
36 copying, the books, records, papers, and documents of any person being

1 investigated or proceeded against under the provisions of this subchapter, so
2 long as the books, records, papers, or documents sought to be inspected or
3 copied are reasonably related to the investigation or proceeding being
4 conducted by the director.

5 (5) The director or his or her authorized agent shall, upon
6 application of any party to proceedings before the director, issue to the
7 party subpoenas requiring the attendance and testimony of witnesses or the
8 production of any books, records, papers, or documents reasonably related to
9 issues involved in proceedings before the director or an investigation
10 conducted by the director.

11 (6) If any person in proceedings before the director or in
12 investigations conducted by the director disobeys or resists any lawful order
13 or process issued by the director or his or her authorized agents, or fails
14 to produce, after being lawfully directed to do so, any book, paper, record,
15 or document, or refuses to appear and testify after being subpoenaed to do
16 so, the director shall certify the facts to any court of competent
17 jurisdiction in the state or to the Pulaski County Circuit Court.

18 (7) The court shall have authority to conduct hearings and
19 punish any person for failure or refusal to testify or produce books, papers,
20 documents, or records subpoenaed or ordered by the director as though the
21 conduct constituted contempt of court.

22 (8) Witnesses summoned by the director or his or her authorized
23 agent shall be paid the same fees and mileage paid to witnesses in the courts
24 of this state.

25 (d)(1) The director may prescribe such rules and regulations for the
26 conduct of the business of private employment agencies as necessary to
27 implement this subchapter.

28 (2) These rules shall have the force and effect of law and shall
29 be enforced by the director in the same manner as the provisions of this
30 subchapter.

31 (3) Adoption of rules and regulations pursuant to this
32 subsection shall be carried out in compliance with the Arkansas
33 Administrative Procedure Act, § 25-15-201 et seq.

34 (e) The ~~department~~ division shall have authority to investigate
35 employment agents, agency managers, and counselors. The ~~department~~ division
36 shall have the right to examine records required by law to be kept and

1 maintained by employment agents, agency managers, and counselors and to
2 examine the offices where the business is or shall be conducted by them.

3 (f) The ~~department~~ division may seek to recover in a court of
4 competent jurisdiction fees charged or collected in violation of this
5 subchapter.

6
7 SECTION 5287. Arkansas Code § 11-11-208(a), concerning penalties for a
8 violation of provisions requiring licenses for employment offices and
9 agencies, is amended to read as follows:

10 (a) No person shall engage in the business of or act as an employment
11 agent, agency manager, or counselor unless he or she first obtains a license
12 from the ~~Department~~ Division of Labor.

13
14 SECTION 5288. Arkansas Code § 11-11-209(a), concerning the certificate
15 of exemption required for certain organizations, is amended to read as
16 follows:

17 (a) Bona fide nursing schools, nurses' registries, management
18 consulting firms, business schools, vocational schools whose primary function
19 and purpose is training and education, and resume services shall obtain from
20 the Director of the ~~Department~~ Division of Labor a certificate of exemption
21 from the requirements of this subchapter.

22
23 SECTION 5289. Arkansas Code § 11-11-210(b)(1), concerning the
24 qualifications and application for an employment counselor's license, is
25 amended to read as follows:

26 (b)(1) Every applicant for an initial license for employment counselor
27 shall file with the ~~Department~~ Division of Labor a written application on a
28 form prescribed and furnished by the Director of the ~~Department~~ Division of
29 Labor.

30
31 SECTION 5290. Arkansas Code § 11-11-211(a)(5), concerning the
32 qualifications and application for an agency manager license, is amended to
33 read as follows:

34 (5) A person who has completed the twelfth grade, except that
35 the Director of the ~~Department~~ Division of Labor may establish proof
36 necessary to him or her that the applicant is possessed of a twelfth-grade

1 education in terms of intellectual competency, judgment, and achievement; and

2
3 SECTION 5291. Arkansas Code § 11-11-211(b)(1), concerning the
4 qualifications and application for an agency manager license, is amended to
5 read as follows:

6 (b)(1) Every applicant for an initial license for agency manager shall
7 file with the ~~Department~~ Division of Labor a written application on a form
8 prescribed and furnished by the director.

9
10 SECTION 5292. Arkansas Code § 11-11-212(a)(5), concerning the
11 qualifications and application to hold an employment agency license, is
12 amended to read as follows:

13 (5) A person who has completed the twelfth grade, except that
14 the Director of the ~~Department~~ Division of Labor may establish proof
15 necessary to him or her that the applicant is possessed of a twelfth-grade
16 education in terms of intellectual competency, judgment, and achievement; and

17
18 SECTION 5293. Arkansas Code § 11-11-213(a)(2), concerning the bond
19 required for an employment agency license, is amended to read as follows:

20 (2) The terms and conditions of the bond shall be approved by
21 the Director of the ~~Department~~ Division of Labor.

22
23 SECTION 5294. Arkansas Code § 11-11-213(d)(1), concerning the bond
24 required for an employment agency license, is amended to read as follows:

25 (d)(1) If any licensee fails to file a new bond with the ~~Department~~
26 Division of Labor within thirty (30) days after notice of cancellation by the
27 surety of the bond required by this section, the license issued to the
28 principal under the bond is suspended until such time as a new surety bond is
29 filed with and approved by the director.

30
31 SECTION 5295. Arkansas Code § 11-11-214(a), concerning the
32 investigation of an applicant's license, is amended to read as follows:

33 (a) Upon filing of an application for a license as provided in this
34 subchapter, the Director of the ~~Department~~ Division of Labor shall cause an
35 investigation to be made regarding the character, business integrity, and
36 financial responsibility of the license applicant.

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SECTION 5296. Arkansas Code § 11-11-215(b), concerning the change of an employment agency license, is amended to read as follows:

(b) No employment agent shall permit any person not mentioned in the license or license application to become a member, officer, director, shareholder, or partner in the conduct of the business of the employment agent unless written consent of the Director of the ~~Department~~ Division of Labor and written consent of the surety on the bond required by this subchapter shall first be obtained.

SECTION 5297. Arkansas Code § 11-11-215(d), concerning the change of an employment agency license, is amended to read as follows:

(d) A charge of ten dollars (\$10.00) shall be made by the ~~Department~~ Division of Labor for the recording of authorization for each change of office location authorized by this section.

SECTION 5298. Arkansas Code § 11-11-216(a)(1)(A), concerning the examination for a license, is amended to read as follows:

(a)(1)(A) Before the Director of the ~~Department~~ Division of Labor issues a license to an applicant for a permanent employment agent's, permanent agency manager's, or permanent counselor's license, the applicant shall be required to successfully complete a written examination prepared by the director.

SECTION 5299. Arkansas Code § 11-11-216(b), concerning the timing of examinations, is amended to read as follows:

(b) The ~~Department~~ Division of Labor shall hold examinations at such times and places as it shall reasonably determine, except that examinations shall be given to license applicants at least once every sixty (60) days.

SECTION 5300. Arkansas Code § 11-11-216(c)(2), concerning the examination fee, is amended to read as follows:

(2) The examination fee shall be retained by the ~~department~~ division, whether or not the applicant successfully completes the examination.

1 SECTION 5301. The introductory language of Arkansas Code § 11-11-
2 218(a)(1), concerning temporary licenses of private employment agencies, is
3 amended to read as follows:

4 (a)(1) The Director of the ~~Department~~ Division of Labor shall have
5 authority to issue a temporary license for operation of a private employment
6 agency, which shall be valid for no more than ninety (90) days, upon
7 submission by the applicant for the license of:

8
9 SECTION 5302. Arkansas Code § 11-11-219(b), concerning renewal of
10 licenses, is amended to read as follows:

11 (b) Applications for renewal of all licenses provided by this
12 subchapter must be filed with the Director of the ~~Department~~ Division of
13 Labor no later than thirty (30) days prior to expiration of the license.
14

15 SECTION 5303. Arkansas Code § 11-11-220 is amended to read as follows:
16 11-11-220. Cessation of business by licensee.

17 (a)(1) If an employment agent ceases business operations, the agent
18 shall, as soon as reasonably possible, notify the ~~Department~~ Division of
19 Labor and shall deliver or forward by mail the agent's license to the
20 ~~department~~ division. Failure to give notice, or failure to deliver such
21 employment agent's license, shall be a violation of § 11-11-208.

22 (2)(A) When one (1) or more individuals, on the basis of whose
23 qualifications an agency license has been obtained, ceases to be connected
24 with the licensed business for any reason whatsoever, the agency business may
25 be carried on for a temporary period not to exceed thirty (30) days, under
26 such terms and conditions as the Director of the ~~Department~~ Division of Labor
27 shall provide by regulation for the orderly closing of the business or the
28 replacement and qualification of a new member, partner, or corporate officer,
29 director, or shareholder.

30 (B) The agency's authorization to continue to do business
31 under this subchapter beyond the thirty-day period provided in this
32 subdivision (a)(2) shall be contingent upon approval by the ~~director~~ Director
33 of the Division of Labor of any new member, principal, partner, officer,
34 director, or shareholder.

35 (b)(1) If an agency manager terminates his or her employment with an
36 employment agency by which he or she is employed, the agency shall notify the

1 ~~department~~ division, as soon as is reasonably possible, to enable the
2 ~~department~~ division to know at all times the identity of the person charged
3 with the general management of each of the agency's office locations.

4 (2) The employment agency shall also deliver or forward by mail
5 the agency manager's license, together with the reasons why the agency
6 manager has terminated his or her position with the employment agency.

7 (c) If an employment counselor terminates his or her employment with
8 the employment agency by which he or she is employed, the agency shall, as
9 soon as is reasonably possible, notify the ~~department~~ division and deliver or
10 forward by mail the employment counselor's license to the ~~department~~
11 division, together with the reasons for his or her termination.

12
13 SECTION 5304. Arkansas Code § 11-11-221(a), concerning the grounds for
14 the issuance, refusal, suspension, or revocation of a license, is amended to
15 read as follows:

16 (a) The Director of the ~~Department~~ Division of Labor shall issue a
17 license as an employment agent, agency manager, or counselor to any person
18 who qualifies for the license under the terms of this subchapter.

19
20 SECTION 5305. Arkansas Code § 11-11-222(a)(1), concerning the notice
21 and hearing required for the refusal, suspension, or revocation of a license,
22 is amended to read as follows:

23 (a)(1) The Director of the ~~Department~~ Division of Labor may not refuse
24 to issue a license or suspend or revoke a license unless it furnishes the
25 person, employment agent, agency manager, or employment counselor with a
26 written statement of the charges against him or her and affords him or her an
27 opportunity to be heard on the charges.

28
29 SECTION 5306. Arkansas Code § 11-11-222(c)(1), concerning the notice
30 and hearing required for the refusal, suspension, or revocation of a license,
31 is amended to read as follows:

32 (c)(1) A stenographic record of all proceedings shall be made, and a
33 transcript of the proceedings shall be made if desired by the ~~Department~~
34 Division of Labor or by the accused.

35
36 SECTION 5307. Arkansas Code § 11-11-223(a), concerning judicial review

1 of the director's administrative orders, is amended to read as follows:

2 (a) If the Director of the ~~Department~~ Division of Labor refuses to
3 grant a license, suspends or revokes a license that has been granted, or
4 imposes an administrative fine as provided in §§ 11-11-213, 11-11-221, and
5 11-11-222, the person adversely affected or aggrieved by the order of the
6 director issued pursuant to the provisions of §§ 11-11-221 and 11-11-222 may
7 obtain a review of the order.

8

9 SECTION 5308. Arkansas Code § 11-11-223(c)(2), concerning judicial
10 review of the director's administrative orders, is amended to read as
11 follows:

12 (2)(A) A copy of the petition shall be forthwith transmitted by
13 the clerk of the court to the ~~Department~~ Division of Labor.

14 (B) Thereupon, the ~~department~~ division shall file in the
15 court the record of proceedings before the ~~department~~ division.

16

17 SECTION 5309. Arkansas Code § 11-11-223(i)(1), concerning judicial
18 review of the director's administrative orders, is amended to read as
19 follows:

20 (i)(1) The ~~department~~ division shall certify the record of its
21 proceedings if the party commencing the proceedings shall pay to it the cost
22 of preparing and certifying the records, including the recording and
23 transcribing of all testimony introduced in the proceedings.

24

25 SECTION 5310. Arkansas Code § 11-11-225(8)(A), concerning
26 miscellaneous restrictions and requirements for employment agencies, is
27 amended to read as follows:

28 (8)(A) Every employment agency shall inform the public by a
29 conspicuous sign or poster that the employment agency is subject to the
30 requirements of this subchapter, which is administered and enforced by the
31 ~~Department~~ Division of Labor.

32 (B) The ~~department~~ division shall prepare and distribute
33 the sign or poster to be used by agencies to comply with this subdivision
34 (8);

35

36 SECTION 5311. Arkansas Code § 11-11-227(c)(1), concerning fee

1 restrictions and requirements, is amended to read as follows:

2 (c)(1) When a dispute concerning a fee exists, the ~~Department~~ Division
3 of Labor may conduct an investigation to determine all of the facts
4 concerning the dispute. Thereafter, the Director of the ~~Department~~ Division
5 of Labor shall issue a decision and order resolving the dispute.

6
7 SECTION 5312. Arkansas Code § 11-11-228(a), concerning filing of fee
8 schedules, forms, and contracts required for an employment agency, is amended
9 to read as follows:

10 (a) It shall be the duty of every employment agency to file with the
11 ~~Department~~ Division of Labor a schedule of all fees, charges, and commissions
12 that the agency expects to charge and collect for its service, together with
13 a copy of all forms and contracts to be used in dealings with the public in
14 the operation of its business.

15
16 SECTION 5313. Arkansas Code § 11-11-229(e), concerning the records to
17 be kept by an employment agency, is amended to read as follows:

18 (e) All of the records listed in this section shall be kept in the
19 employment agency office and shall be open during office hours to inspection
20 by the ~~Department~~ Division of Labor and its duly authorized agents.

21
22 SECTION 5314. Arkansas Code § 11-12-102(1), concerning the definition
23 of "director" under the laws regulating the employment of children in the
24 entertainment industry, is repealed.

25 ~~(1) "Director" means the Director of the Department of Labor;~~

26
27 SECTION 5315. Arkansas Code § 11-12-104(b)(1), concerning restrictions
28 on employment under the laws regulating the employment of children in the
29 entertainment industry, is amended to read as follows:

30 (1) In a role or in an environment deemed to be hazardous or
31 detrimental to the health, morals, education, or welfare of the child as
32 determined by the Director of the ~~Department~~ Division of Labor;

33
34 SECTION 5316. Arkansas Code § 11-12-105 is amended to read as follows:
35 11-12-105. Implementation and enforcement.

36 The Director of the ~~Department~~ Division of Labor shall have the

1 authority to:

2 (1) Promulgate rules and regulations for the implementation of
3 this chapter;

4 (2) Suspend or revoke a permit for the employment of a child in
5 the entertainment industry for cause;

6 (3) Enter or authorize his or her representative to enter and
7 inspect any place of employment where children work, rest, or play; and

8 (4) Otherwise enforce and implement the provisions of this
9 chapter.

10

11 SECTION 5317. Arkansas Code § 11-14-112 is amended to read as follows:

12 11-14-112. Rating plans based on drug-free workplace program
13 participation.

14 The Insurance Commissioner shall approve rating plans for workers'
15 compensation insurance that give specific identifiable consideration in the
16 setting of rates to employers that implement a drug-free workplace program
17 pursuant to rules adopted by the Workers' Health and Safety Division of the
18 Workers' Compensation Commission. The plans must take effect January 1, 2000,
19 must be actuarially sound, and must state the savings anticipated to result
20 from the drug testing. The credit shall be at least five percent (5%) unless
21 the Insurance Commissioner determines that five percent (5%) is actuarially
22 unsound. The Insurance Commissioner is also authorized to develop a schedule
23 of premium credits for workers' compensation insurance for employers who have
24 safety programs that attain certain criteria for safety programs. The
25 Insurance Commissioner shall consult with the Director of the ~~Department~~
26 Division of Labor in setting such criteria.

27

28 SECTION 5318. Arkansas Code § 12-13-107(d), concerning the duties of
29 the Director of the Department of Arkansas State Police, is amended to read
30 as follows:

31 (d) Nothing in this subchapter shall apply to the inspection of
32 boilers, § 20-23-101 et seq., the administration and enforcement of which is
33 now vested in the ~~Department~~ Division of Labor.

34

35 SECTION 5319. Arkansas Code § 12-19-101(b), concerning the State Task
36 Force for the Prevention on Human Trafficking, is amended to read as follows:

1 (b) If established, representatives on the task force shall be
2 appointed by the Attorney General and may include representatives from:

- 3 (1) The office of the Attorney General;
4 (2) The office of the Governor;
5 (3) The Department of Labor and Licensing;
6 (4) The Department of Health;
7 (5) The Department of Human Services;
8 (6) The Arkansas Association of Chiefs of Police;
9 (7) The Arkansas Sheriffs' Association;
10 (8) The ~~Department~~ Division of Arkansas State Police;
11 (9) The Arkansas Prosecuting Attorneys Association;
12 (10) Local law enforcement; and
13 (11) Nongovernmental organizations such as:
14 (A) Those specializing in the problems of human
15 trafficking;
16 (B) Those representing diverse communities
17 disproportionately affected by human trafficking;
18 (C) Agencies devoted to child services and runaway
19 services; and
20 (D) Academic researchers dedicated to the subject of human
21 trafficking.

22
23 SECTION 5320. Arkansas Code § 12-19-102(c)(2), concerning posting
24 information about the National Human Trafficking Resource Center Hotline, is
25 amended to read as follows:

- 26 (2) The Department of Labor and Licensing; and
27

28 SECTION 5321. Arkansas Code § 15-10-304(b)(2), concerning studying the
29 need for changes in the law, is amended to read as follows:

- 30 (2) The ~~Department~~ Division of Labor, particularly as to
31 hazardous working conditions, if any;
32

33 SECTION 5322. Arkansas Code § 17-12-204(b), concerning the annual
34 reporting of the disposition of funds, is amended to read as follows:

- 35 (b) The board shall file an annual report of its activities with the
36 ~~Governor~~ Secretary of the Department of Labor and Licensing, and the report

1 shall include a statement of all receipts and disbursements.

2
3 SECTION 5323. Arkansas Code § 17-17-203(a), concerning the employees
4 and supplies of the Auctioneer's Licensing Board, is amended to read as
5 follows:

6 (a) The Auctioneer's Licensing Board shall have ~~full~~ authority to
7 employ, in consultation with the Secretary of the Department of Labor and
8 Licensing, and discharge a ~~secretary~~ Director of the Auctioneer's Licensing
9 Board who shall provide administrative services to the board and who shall
10 also be the treasurer of the Auctioneer's Licensing Board, and such other
11 personnel as may be necessary to administer and enforce the provisions of
12 this chapter.

13
14 SECTION 5324. Arkansas Code § 17-17-203(b), concerning the supplies of
15 the Auctioneer's Licensing Board, is repealed.

16 ~~(b) The board shall obtain office space, furniture, stationery, and~~
17 ~~other proper supplies and conveniences reasonably necessary to carry out the~~
18 ~~provisions of this chapter.~~

19
20 SECTION 5325. Arkansas Code § 17-17-204 is amended to read as follows:

21 17-17-204. ~~Secretary-treasurer~~ Director – Disposition of funds.

22 (a) All fees, charges, and penalties collected by the Auctioneer's
23 Licensing Board under the provisions of this chapter shall be paid to the
24 ~~Secretary-treasurer~~ Director of the Auctioneer's Licensing Board, who shall
25 be the custodian of all funds and shall deposit them into a bank or banks to
26 be designated by the board.

27 (b) The ~~secretary-treasurer~~ director shall execute a bond in an amount
28 determined by the State Risk Manager pursuant to the self-insured fidelity
29 program as authorized in § 21-2-701 et seq.

30 (c)(1) The ~~secretary-treasurer~~ director shall pay funds of the board
31 only on vouchers signed by himself or herself and countersigned by the Chair
32 of the Auctioneer's Licensing Board.

33 (2) The total expenses for all purposes and obligations of the
34 board shall not exceed the total fees, charges, penalties, and other funds
35 paid to the board under the provisions of this chapter.

36 (d) The ~~secretary-treasurer~~ director shall make semiannual financial

1 reports in detail to the board not later than January 30 and July 30 of each
2 year, which will be kept on permanent file by the board.

3
4 SECTION 5326. Arkansas Code § 17-20-201(a)(1), concerning the creation
5 of the State Board of Barber Examiners, is amended to read as follows:

6 (a)(1) There is created a State Board of Barber Examiners, consisting
7 of the Secretary of the ~~State Board of Health~~ Department of Labor and
8 Licensing, or his or her designee, who shall be an ex officio member of the
9 board, and five (5) members to be appointed by the Governor for a term of six
10 (6) years.

11
12 SECTION 5327. Arkansas Code § 17-20-203 is amended to read as follows:

13 17-20-203. ~~Executive secretary~~ Director of the State Board of Barber
14 Examiners.

15 (a)(1) The State Board of Barber Examiners in consultation with the
16 Secretary of the Department of Labor and Licensing may employ a ~~is authorized~~
17 ~~to employ an executive secretary~~ Director of the State Board of Barber
18 Examiners, who shall not be a member of the board and who shall have the
19 responsibility of keeping:

20 (A) A record of the board's proceedings;

21 (B) A record of persons registered as barbers ~~and~~
22 ~~apprentices~~ showing the name, place of business, and residence of each and
23 the date and number of his or her certificate;

24 (C) A record of all certificates issued, refused, renewed,
25 suspended, or revoked; and

26 (D) Such other records as may be directed by the board or
27 required by law.

28 (2) The records shall be open to public inspection at all
29 reasonable times.

30 (b) The ~~executive secretary~~ director shall perform such other
31 functions and duties as may be prescribed by law or directed by the ~~board~~
32 secretary.

33 (c) The ~~Executive Secretary of the State Board of Barber Examiners~~
34 director shall receive such compensation for his or her services as may be
35 prescribed by the ~~board~~ secretary within the limitations of the biennial
36 appropriation therefor made by the General Assembly.

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SECTION 5328. Arkansas Code § 17-20-204 is amended to read as follows:
17-20-204. Personnel.

The State Board of Barber Examiners is authorized to employ such other personnel as it deems necessary, and as is approved by the Secretary of the Department of Labor and Licensing, to carry out the provisions of this chapter, within such limits as may be provided by biennial appropriation of the General Assembly. All employees shall work under the direct supervision of the ~~Executive Secretary~~ Director of the State Board of Barber Examiners.

SECTION 5329. Arkansas Code § 17-20-208(b)(1), concerning the fees of the State Board of Barber Examiners, is amended to read as follows:

(b) Funds thus realized shall be expended for:

(1) The payment of the salary of the ~~Executive Secretary~~ Director of the State Board of Barber Examiners;

SECTION 5330. Arkansas Code § 17-20-209 is amended to read as follows:
17-20-209. Disposition of funds.

(a)(1) All moneys received by the State Board of Barber Examiners under this chapter shall be paid to the ~~Executive Secretary~~ Director of the State Board of Barber Examiners, who shall give a proper receipt for those moneys to the Auditor of State the total amount received by him or her from all sources under this chapter.

(2) The ~~executive secretary~~ director shall at the same time deposit the entire amount of such receipts with the Treasurer of State, who shall place them to the credit of a special fund to be created and known as the "State Board of Barber Examiners Fund".

(b)(1) By the Chair of the State Board of Barber Examiners and the ~~executive secretary~~ director, the board shall from time to time certify to the Auditor of State the necessary expenses incurred by the board, including expense reimbursement and stipends as provided in § 25-16-901 et seq. The Auditor of State shall issue his or her warrant for the expenses, which shall be paid out of the funds so established for the maintenance of the board.

(2) No order shall be drawn by the Auditor of State on any fund other than the State Board of Barber Examiners Fund for any stipends or expenses of the board incident to the administration of this chapter.

1 (c) All funds so paid to the Treasurer of State shall remain and be a
2 separate and permanent fund for the maintenance of the board and the
3 administration of this chapter.

4
5 SECTION 5331. Arkansas Code § 17-22-203 is amended to read as follows:

6 17-22-203. Secretary Director of the State Athletic Commission.

7 (a) The State Athletic Commission in consultation with the Secretary
8 of the Department of Labor and Licensing shall have authority to select may
9 employ a secretary Director of the State Athletic Commission and fix the
10 salary thereof at a sum not to exceed the maximum annual salary prescribed
11 for such a position in the biennial appropriation for the ~~commission~~
12 Department of Labor and Licensing.

13 (b) The ~~secretary~~ director shall:

14 (1) Keep in the office of the commission a full, complete, and
15 up-to-date record of all the proceedings of the commission;

16 (2) Keep an up-to-date account of all money received by him or
17 her on behalf of the commission; and

18 (3) Perform such other duties as shall be prescribed by the
19 ~~commission~~ secretary.

20
21 SECTION 5332. Arkansas Code § 17-22-209 is repealed.

22 ~~17-22-209. Transfer of the State Athletic Commission.~~

23 ~~(a)(1) Effective July 1, 2013, the State Athletic Commission is~~
24 ~~transferred to the Department of Health and shall be administered by the~~
25 ~~Director of the Department of Health.~~

26 ~~(2) All authority, powers, duties, functions, records,~~
27 ~~authorized positions, property, unexpended balances of appropriations,~~
28 ~~allocations, or other funds of the commission are transferred to the~~
29 ~~department.~~

30 ~~(b) In order to protect the commission, to allow for continuation of~~
31 ~~necessary procedures, and to provide for a smooth transition to the~~
32 ~~department, the director may not realign the functions and records of the~~
33 ~~commission before July 1, 2014.~~

34
35 SECTION 5333. Arkansas Code § 17-25-204 is amended to read as follows:

36 17-25-204. Employees.

1 The Contractors Licensing Board in consultation with the Secretary of
2 the Department of Labor and Licensing may ~~shall~~ employ a chief administrative
3 employee, also known as administrator, who shall possess such qualifications
4 as may be determined by the ~~board~~ Contractors Licensing Board and who shall
5 serve at the pleasure of the board. In addition, the board may employ such
6 additional professional and clerical employees as may be necessary for the
7 operation of the board and its various functions and pay salaries thereto as
8 may be authorized by law.

9
10 SECTION 5334. Arkansas Code § 17-25-206(e), concerning the records and
11 reports of the Contractors Licensing Board, is amended to read as follows:

12 (e) On or before August 1 of each year, the board shall submit to the
13 ~~Governor~~ Secretary of the Department of Labor and Licensing a report of its
14 transactions for the preceding year and shall file with the Secretary of
15 State a copy of the report, together with a complete statement of receipts
16 and expenditures of the board attested by the affidavit of the Chair of the
17 Contractors Licensing Board and ~~secretary~~ Secretary of the Contractors
18 Licensing Board and a copy of the roster of licensed contractors.

19
20 SECTION 5335. Arkansas Code § 17-28-103 is amended to read as follows:
21 17-28-164. Disposition of funds.

22 All funds received by the Board of Electrical Examiners of the State of
23 Arkansas under the provisions of this chapter shall be deposited as special
24 revenues into the State Treasury to the credit of the Department of Labor and
25 Licensing Special Fund, there to be used by the ~~Department~~ Division of Labor
26 in carrying out the functions, powers, and duties as set out in this chapter
27 and to defray the costs of the maintenance, operation, and improvements
28 required by the ~~department~~ division in carrying out the functions, powers,
29 and duties otherwise imposed by law on the ~~department~~ division or the
30 Director of the ~~Department~~ Division of Labor.

31
32 SECTION 5336. The introductory language of Arkansas Code § 17-28-
33 201(b), concerning the creation of the Board of Electrical Examiners of the
34 State of Arkansas, is amended to read as follows:

35 (b) The board shall consist of the ~~Director~~ Secretary of the
36 Department of Labor and Licensing or his or her authorized representative and

1 eight (8) other members who shall be residents of this state appointed by the
2 Governor with the advice and consent of the Senate:

3
4 SECTION 5337. Arkansas Code § 17-28-202(b), concerning the duties of
5 the Board of Electrical Examiners of the State of Arkansas, is amended to
6 read as follows:

7 (b)(1) It shall be the duty of the Department of Labor and Licensing
8 to administer and enforce the provisions of this chapter.

9 (2) For the enforcement of this chapter, the ~~Director~~ Secretary
10 of the Department of Labor and Licensing or his or her designated employees
11 shall have the authority to enter, during normal business hours, upon any
12 private or public premises with right of access, ingress, and egress for the
13 purpose of ascertaining whether a person has performed electrical work or
14 installed or repaired electrical facilities in accordance with this chapter,
15 the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and the
16 regulations and standards adopted pursuant thereto.

17
18 SECTION 5338. The introductory language of Arkansas Code § 17-28-
19 301(d)(2), concerning the issuance and renewal of an electrician's license,
20 is amended to read as follows:

21 (2) The Director of the ~~Department of Labor~~ Division of
22 Occupational and Professional Licensing Boards and Commissions may renew a
23 temporary license as a master electrician or journeyman electrician issued by
24 the board for more than one (1) additional period of six (6) months, if:

25
26 SECTION 5339. Arkansas Code § 17-28-309 is amended to read as follows:
27 17-28-309. Penalties.

28 (a) The Director of the ~~Department of Labor~~ Division of Occupational
29 and Professional Licensing Boards and Commissions is authorized to petition
30 any court of competent jurisdiction to enjoin or restrain any person who
31 performs electrical work without a license or who otherwise violates the
32 provisions of this chapter.

33 (b)(1) A civil penalty may be assessed against any person, firm, or
34 corporation by the ~~Department of Labor~~ Division of Occupational and
35 Professional Licensing Boards and Commissions and subject to appeal and
36 hearing before the Board of Electrical Examiners of the State of Arkansas

1 according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
2 if it is determined that the person, firm, or corporation has violated any:

3 (A) Provision of this chapter;

4 (B) Provision in the Arkansas Electrical Code Authority
5 Act, § 20-31-101 et seq.;

6 (C) Rule, regulation, or order issued or promulgated by
7 the board; or

8 (D) Condition of a license, certificate, or registration
9 issued by the board.

10 (2) For each violation, the penalty shall not exceed the
11 following:

12 (A) Two hundred fifty dollars (\$250) for a first offense;

13 (B) Seven hundred fifty dollars (\$750) for a second
14 offense; or

15 (C) One thousand dollars (\$1000) for a third offense.

16 (3) Each day of a continuing violation is a separate violation
17 for purposes of penalty assessment.

18 (4) Assessment of a civil penalty by the board shall be made no
19 later than two (2) years after the date of the occurrence of the violation.

20 (5) If any person, firm, or corporation against whom a civil
21 penalty has been imposed fails to pay the penalty within sixty (60) days of
22 the board's decision, the director may file an action in a court of competent
23 jurisdiction to collect the civil penalty without paying costs or giving bond
24 for costs.

25 (6) Any penalties collected under this section shall be
26 deposited as special revenues into the State Treasury to the credit of the
27 Department of Labor and Licensing Special Fund, there to be used by the
28 Department of Labor and Licensing in carrying out the functions, powers, and
29 duties of this chapter.

30
31 SECTION 5340. Arkansas Code § 17-30-202 is amended to read as follows:

32 17-30-202. Officers and ~~employees~~ Director of State Board of Licensure
33 for Professional Engineers and Professional Surveyors.

34 The State Board of Licensure for Professional Engineers and
35 Professional Surveyors shall:

36 (1) Select its own officers; and

1 (2) Have the power in consultation with the Secretary of the
2 Department of Labor and Licensing to appoint an executive director to employ
3 a Director of the State Board of Licensure for Professional Engineers and
4 Professional Surveyors who shall serve as secretary-treasurer of the board.
5

6 SECTION 5341. Arkansas Code § 17-30-205(c), concerning the duty of the
7 Attorney General to the State Board of Licensure for Professional Engineers
8 and Professional Surveyors, is amended to read as follows:

9 (c) The board may employ counsel and necessary assistance to aid in
10 the enforcement of this chapter or request assistance from the Department of
11 Labor and Licensing, and the compensation and expenses shall be paid from the
12 funds of the board.
13

14 SECTION 5342. Arkansas Code § 17-32-201(h), concerning the creation,
15 members, and compensation of the State Board of Registration for Professional
16 Geologists, is amended to read as follows:

17 (h) The members of the board may receive expense reimbursement in
18 accordance with § 25-16-901 et seq. Board members, ~~except the Secretary-~~
19 ~~treasurer of the State Board of Registration for Professional Geologists,~~
20 shall serve without compensation.
21

22 SECTION 5343. Arkansas Code § 17-32-207(b), concerning the official
23 records and registers of the State Board of Registration for Professional
24 Geologists, is amended to read as follows:

25 (b) All official records of the board, or affidavits by the ~~Secretary-~~
26 ~~treasurer~~ Director of the State Board of Registration for Professional
27 Geologists as to the content of such records, shall be prima facie evidence
28 of all matters required to be kept therein.
29

30 SECTION 5344. Arkansas Code § 17-32-207(c)(1), concerning the official
31 records and registers of the State Board of Registration for Professional
32 Geologists, is amended to read as follows:

33 (c)(1) A complete roster showing the names, the classification, which
34 will be geologist, specialty, or geologist-in-training, and the last known
35 address of the registered geologists or certified geologists-in-training
36 shall be published by the ~~secretary-treasurer~~ director one (1) time each year

1 or at such intervals as established by board regulations.

2
3 SECTION 5345. Arkansas Code § 17-32-207(d), concerning the official
4 records and registers of the State Board of Registration for Professional
5 Geologists, is amended to read as follows:

6 (d) At the end of the fiscal year, the board shall submit to the
7 ~~Governor~~ Secretary of the Department of Labor and Licensing and the General
8 Assembly a complete statement of the receipts and expenditures of the board.

9
10 SECTION 5346. Arkansas Code § 17-32-208 is amended to read as follows:
11 17-32-208. ~~Secretary-treasurer, assistants~~ Director of the State Board
12 of Registration for Professional Geologists – Indebtedness.

13 (a)(1) The ~~Secretary-treasurer~~ Director of the State Board of
14 Registration for Professional Geologists shall receive and account for all
15 moneys received in accordance with state law and the regulations of the State
16 Board of Registration for Professional Geologists.

17 (2) These moneys shall be deposited into a financial institution
18 located in this state and shall be disbursed only by the ~~secretary-treasurer~~
19 director.

20 (b) The ~~secretary-treasurer~~ director shall receive such salary as the
21 board in consultation with Secretary of the Department of Labor and Licensing
22 determines within the limits set forth by the General Assembly.

23 (c) The ~~board~~ Department of Labor and Licensing shall employ
24 assistants required to properly perform ~~its~~ the board's work and shall make
25 expenditures from this account for any purpose that, in the opinion of the
26 board, is reasonably necessary to perform its duties under law and its rules
27 and regulations.

28 (d) The board shall have no authority to incur indebtedness.

29
30 SECTION 5347. Arkansas Code § 17-33-201(a)(1), concerning the creation
31 and members of the HVACR Licensing Board, is amended to read as follows:

32 (1) The secretary of the board shall be a representative of the
33 Department of ~~Health~~ Labor and Licensing;

34
35 SECTION 5348. Arkansas Code § 17-33-201(d), concerning the creation
36 and members of the HVACR Licensing Board, is amended to read as follows:

1 (d) The secretary of the board, who shall be an employee of the
2 Department of ~~Health Labor and Licensing~~, shall serve at the pleasure of the
3 Governor, and all other members shall serve four-year terms.
4

5 SECTION 5349. Arkansas Code § 17-33-202(3), concerning the powers and
6 duties of the HVACR Licensing Board, is amended to read as follows:

7 (3) Assist and advise the Department of ~~Health Labor and~~
8 Licensing on all matters related to the licensing of HVACR maintenance work;
9

10 SECTION 5350. Arkansas Code § 17-33-205(a)(2)(A), concerning the
11 disposition of fees and payments collected by the HVACR Licensing Board, is
12 amended to read as follows:

13 (2)(A) All funds deposited into the HVACR Licensing Fund shall
14 be used for the maintenance, operation, and improvement of the HVACR
15 Licensing and Inspection Program of the Department of ~~Health Labor and~~
16 Licensing.
17

18 SECTION 5351. Arkansas Code § 17-33-205(a)(3), concerning the
19 disposition of fees and payments collected by the HVACR Licensing Board, is
20 amended to read as follows:

21 (3) Subject to such rules and regulations as may be implemented
22 by the Chief Fiscal Officer of the State, the disbursing officer for the
23 Department of ~~Health Labor and Licensing~~ is hereby authorized to transfer all
24 unexpended funds relative to the program that pertain to fees collected, as
25 certified by the Chief Fiscal Officer of the State, to be carried forward and
26 made available for expenditures for the same purpose for any following fiscal
27 year.
28

29 SECTION 5352. Arkansas Code § 17-33-306 is amended to read as follows:
30 17-33-306. Expiration and renewal.

31 All licenses or registrations issued under this chapter shall expire
32 one (1) year after the date of issuance or at a time specified by the HVACR
33 Licensing Board. To renew a license or registration, the licensee must submit
34 to the Department of ~~Health Labor and Licensing~~ before the expiration date on
35 a form prescribed by the department the appropriate license or registration
36 fees required by this chapter.

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SECTION 5353. Arkansas Code § 17-52-306(15), concerning the powers and duties of the Arkansas Home Inspector Registration Board, is amended to read as follows:

(15)(A) Assume the ~~Secretary of State's~~ Secretary of the Department of Labor and Licensing's responsibilities for home inspector registration by development of or contracting for a support organization to perform the administrative duties required by the board if the fund totals at least fifteen thousand dollars (\$15,000).

(B) If the fund totals at least fifteen thousand dollars (\$15,000) and the board votes to transfer the responsibilities of the ~~Secretary of State~~ Secretary of the Department of Labor and Licensing to the board, then the board shall give written notice to the ~~Secretary of State~~ Secretary of the Department of Labor and Licensing ninety (90) calendar days before the transfer; and

SECTION 5354. Arkansas Code § 17-52-311 is amended to read as follows:

17-52-311. Role of ~~Secretary of State~~ Secretary of the Department of Labor and Licensing.

(a)(1) The ~~Secretary of State~~ Secretary of the Department of Labor and Licensing shall be the custodian of permanent, official home inspector registration files and shall maintain permanent records of all home inspector registration applications received since the enactment of this subchapter.

(2) The ~~Secretary of State~~ secretary shall maintain the permanent records of the Arkansas Home Inspector Registration Board.

(b) The ~~Secretary of State~~ secretary shall receive and process applications for initial registration and renewal of registration.

SECTION 5355. Arkansas Code § 17-52-312(d), concerning the Arkansas Home Inspectors Registration Fund, is amended to read as follows:

(d)(1) Except as provided in subdivision (d)(2) of this section, effective with the 2003 registration and under the provisions of this subchapter, all funds, fees, charges, costs, and collections accruing to or collected by the Secretary of ~~State~~ the Department of Labor and Licensing shall be deposited quarterly into the fund.

(2) The ~~Secretary of State~~ secretary shall retain twenty-five

1 dollars (\$25.00) for processing registration applications and renewals until
2 this process is transferred to the Arkansas Home Inspector Registration
3 Board.

4
5 SECTION 5356. Arkansas Code § 17-52-316(a)(2), concerning the fees and
6 reimbursements by the Arkansas Home Inspector Registration Board, is amended
7 to read as follows:

8 (2) ~~Within forty five (45) days of the enactment of this~~
9 ~~section, the~~ The board shall notify the Secretary of State the Department of
10 Labor and Licensing of the registration fee for the next year and by June 1
11 every year thereafter until transferred to the board.

12
13 SECTION 5357. Arkansas Code § 17-55-101(c)(2)(C)(iii), concerning the
14 licensure of electrical inspectors, is amended to read as follows:

15 (iii) ~~The Department of Labor~~ Division of
16 Occupational and Professional Licensing Boards and Commissions may conduct or
17 sponsor continuing education classes for electrical inspectors.

18
19 SECTION 5358. Arkansas Code § 17-55-101(d)(2)(A), concerning the
20 licensure of electrical inspectors, is amended to read as follows:

21 (2)(A) A civil penalty may be assessed against an electrical
22 inspector by the ~~department~~ Division of Occupational and Professional
23 Licensing Boards and Commissions and subject to appeal and hearing before the
24 board according to the Arkansas Administrative Procedure Act, § 25-15-201 et
25 seq., if it is determined that the electrical inspector has violated a:

- 26 (i) Provision of this chapter;
27 (ii) Rule, regulation, or order issued or
28 promulgated by the board; or
29 (iii) Condition of a license issued by the board.

30
31 SECTION 5359. Arkansas Code § 17-55-101(d)(2)(E) and (F), concerning
32 the licensure of electrical inspectors, are amended to read as follows:

33 (E) If an electrical inspector against whom a civil
34 penalty has been imposed fails to pay the penalty within sixty (60) days of
35 the board's decision, the Director of the ~~Department of Labor~~ Division of
36 Occupational and Professional Licensing Boards and Commissions may file an

1 action in a court of competent jurisdiction to collect the civil penalty
2 without paying costs or giving bond for costs.

3 (F) Any penalties collected under this section shall be
4 deposited as special revenues into the State Treasury to the credit of the
5 Department of Labor and Licensing Special Fund, there to be used by the
6 ~~department~~ Department of Labor and Licensing in carrying out the functions,
7 powers, and duties of this chapter.

8
9 SECTION 5360. Arkansas Code § 17-55-104 is amended to read as follows:
10 17-55-104. Disposition of funds.

11 All funds received by the Board of Electrical Examiners of the State of
12 Arkansas under this chapter shall be deposited as special revenues into the
13 State Treasury to the credit of the Department of Labor and Licensing Special
14 Fund, there to be used by the Department of Labor and Licensing in carrying
15 out the functions, powers, and duties as set out in this chapter, § 17-28-101
16 et seq., and the Arkansas Electrical Code Authority Act, § 20-31-101 et seq.,
17 and to defray the costs of the maintenance, operation, and improvements
18 required by the department in carrying out the functions, powers, and duties
19 otherwise imposed by law on the ~~Director~~ Secretary of the Department of Labor
20 and Licensing.

21
22 SECTION 5361. Arkansas Code § 17-55-105(a), concerning the authority
23 to charge fees for continuing education, is amended to read as follows:

24 (a) The Department of Labor and Licensing may charge fees for
25 continuing education classes that it conducts or sponsors for electrical
26 inspectors.

27
28 SECTION 5362. Arkansas Code § 17-56-103 is amended to read as follows:
29 17-56-103. Administration.

30 ~~The Arkansas Commission on Law Enforcement Standards and Training~~
31 Department of Labor and Licensing shall administer the provisions of this
32 chapter.

33
34 SECTION 5363. Arkansas Code § 19-5-1211 is amended to read as follows:
35 19-5-1211. Department of Labor and Licensing Special Fund.

36 (a) There is created on the books of the Treasurer of State, the

1 Auditor of State, and the Chief Fiscal Officer of the State a special fund to
2 be known as the "Department of Labor and Licensing Special Fund".

3 (b) The Department of Labor and Licensing Special Fund shall consist
4 of:

5 (1) Those special revenues set out in § 19-6-301(25), (36),
6 (72), (112), (158), (180), and (251); and

7 (2) The fee, penalty, and assessment income and all other
8 income, the disposition of which is not otherwise provided by law, of the
9 Department of Labor and Licensing.

10 (c) The Department of Labor and Licensing Special Fund shall be used
11 for the maintenance, operation, and improvements required by the department
12 in carrying out the special revenue programs enumerated in subsection (b) of
13 this section, and to defray the costs of the maintenance, operation, and
14 improvements required by the department or the ~~Director~~ Secretary of the
15 Department of Labor and Licensing in carrying out the functions, powers, and
16 duties imposed by law on the department or the ~~director~~ secretary.

17 (d) The ~~director~~ secretary, with the approval of the Chief Fiscal
18 Officer of the State, is authorized to transfer funds from the Department of
19 Labor and Licensing Special Fund to the Department of Labor and Licensing
20 Fund Account.

21
22 SECTION 5364. Arkansas Code § 20-20-303(3), concerning hand-harvesting
23 by children, is amended to read as follows:

24 (3) An employment certificate has been obtained from the
25 Director of the ~~Department~~ Division of Labor pursuant to § 11-6-109;

26
27 SECTION 6365. Arkansas Code § 20-22-605(a), concerning the report and
28 investigation of violations of the rules of the Arkansas Fire Protection
29 Licensing Board, is amended to read as follows:

30 (a) The ~~Department of Labor~~ Division of Occupational and Professional
31 Licensing Boards and Commissions and other state and local agencies and
32 officers may cooperate with and assist the Arkansas Fire Protection Licensing
33 Board in administering and enforcing this subchapter by reporting to the
34 board any violations of this subchapter or any failure to comply with this
35 subchapter or the policies adopted by the board pursuant to the authority
36 granted in this subchapter.

1
2 SECTION 5366. Arkansas Code § 20-22-606(c) and (d), concerning the
3 creation of the Arkansas Fire Protection Licensing Board, are amended to read
4 as follows:

5 (c)(1) The board may expend moneys as necessary to reimburse the
6 Department of Labor and Licensing for stationery, office supplies,
7 application forms, equipment, and other materials necessary for the board to
8 carry out its duties.

9 (2) The expense reimbursement and stipends authorized by § 25-
10 16-901 et seq. and the expense for necessary office supplies, forms,
11 equipment, and other necessary materials shall be paid from the fees and
12 fines collected by the board.

13 (d)(1) The ~~board~~ Secretary of the Department of Labor and Licensing
14 shall employ an executive director, chief board investigator, and other staff
15 as necessary whose compensation shall be set by the board.

16 (2) The staff shall be paid from fees and fines collected by the
17 board.

18
19 SECTION 5367. Arkansas Code § 20-23-103(a), concerning the enforcement
20 of the laws governing boiler safety, is amended to read as follows:

21 (a) The criminal penalties provided by this chapter shall be enforced
22 by the prosecuting attorney of each judicial district. The administrative
23 penalties provided by this chapter shall be imposed pursuant to regulation of
24 the Director of the ~~Department~~ Division of Labor.

25
26 SECTION 5368. Arkansas Code § 20-23-104(a), concerning periodic or
27 regular attendance by a boiler operator, is amended to read as follows:

28 (a) All boilers subject to the provisions of this chapter shall be
29 continuously monitored by mechanical and electronic devices approved by the
30 Director of the ~~Department~~ Division of Labor. When a plant is in operation or
31 when any public building is occupied, the boilers shall be under regular
32 attendance by a boiler operator unless otherwise exempt.

33
34 SECTION 5369. Arkansas Code § 20-23-105(a), concerning the disposition
35 of funds, is amended to read as follows:

36 (a) All money received under this chapter shall be paid to the

1 Treasurer of State, who shall place this money to the credit of the
2 Department of Labor and Licensing Special Fund, there to be used by the
3 Department of Labor and Licensing in carrying out the functions, powers, and
4 duties as set out in this chapter and to defray the costs of the maintenance,
5 operation, and improvements required by the department in carrying out the
6 functions, powers, and duties otherwise imposed by law on the department or
7 the Director of the ~~Department~~ Division of Labor.

8
9 SECTION 5370. Arkansas Code § 20-23-202(a)(1), concerning the Chief
10 Inspector of the Boiler Inspection Division, is amended to read as follows:

11 (a)(1) When the office of Chief Inspector of the Boiler Inspection
12 Division becomes vacant, the Director of the ~~Department~~ Division of Labor
13 shall employ a citizen of the State of Arkansas to be chief inspector.

14
15 SECTION 5371. Arkansas Code § 20-23-203(c)(1), concerning the Chief
16 Inspector of the Boiler Inspection Division's duty to inspect and enforce, is
17 amended to read as follows:

18 (c)(1) The chief inspector shall enforce the laws of the state
19 governing the use of boilers and unfired pressure vessels. He or she shall
20 examine into and report to the Director of the ~~Department~~ Division of Labor
21 the causes of boiler explosions which occur within the state.

22
23 SECTION 5372. Arkansas Code § 20-23-301(a)(1), concerning the
24 application of regulations and standards and certificates of inspection
25 required for boilers, is amended to read as follows:

26 (a)(1) No owner or user of a boiler or pressure vessel or engineer or
27 fireman in charge of a boiler or pressure vessel shall operate or allow the
28 boiler or pressure vessel to be operated without a certificate of inspection
29 issued by the Director of the ~~Department~~ Division of Labor or shall allow a
30 greater pressure in the boiler or pressure vessel than is allowed by the
31 certificate of inspection.

32
33 SECTION 5373. Arkansas Code § 20-23-306(a)(1), concerning the issuance
34 of certificates of inspection by the Boiler Inspection Division, is amended
35 to read as follows:

36 (a)(1) Upon receipt by the Boiler Inspection Division of an annual or

1 biennial certificate report of inspection from a state inspector or from an
2 inspector employed by an insurance company that a boiler or pressure vessel
3 is in safe working condition with the required fittings, valves, and
4 appliances properly installed and set, the Director of the ~~Department~~
5 Division of Labor shall issue to the owner of the boiler or pressure vessel a
6 certificate of inspection.

7
8 SECTION 5374. Arkansas Code § 20-23-311(b), concerning inspection fees
9 of the Boiler Inspection Division, is amended to read as follows:

10 (b) The rates in subsection (a) of this section may be reduced by the
11 Director of the ~~Department~~ Division of Labor at the beginning of any fiscal
12 year if the rates produce a greater amount of revenue than is required to
13 defray the cost of operation of the ~~division~~ the Boiler Inspection Division.

14
15 SECTION 5375. Arkansas Code § 20-23-312(a), concerning the collection
16 of inspection fees of the Boiler Inspection Division, is amended to read as
17 follows:

18 (a)(1) In addition to other remedies provided for by this chapter, if
19 after the making of any inspection or accrual of any charge or penalty
20 required or authorized by this chapter, the fee, penalty, or charge is not
21 paid within thirty (30) days after demand upon whoever is liable therefor,
22 the Director of the ~~Department~~ Division of Labor may employ an attorney, who
23 is empowered without payment of costs or giving of bond for costs to
24 institute suit in the name of the State of Arkansas in any court of competent
25 jurisdiction to collect the fees, penalties, costs, and charges.

26 (2)(A) The court where suit is brought pursuant to subdivision
27 (a)(1) of this section for collection of fees, penalties, and charges shall,
28 without limitation, based on the actual amount of the judgment award an
29 attorney's fee equal to the actual cost to the ~~Department~~ Division of Labor
30 or the Boiler Inspection Division for the regular hourly rate of pay of the
31 attorney multiplied by the actual hours, including, but not limited to,
32 travel time, litigation, and case review.

33 (B) Furthermore, the court shall award, without
34 limitation, based on the actual amount of the judgment an amount equal to all
35 costs incurred by the ~~department~~ Division of Labor or the division,
36 including, but not limited to, travel costs, witness fees, sheriff's service

1 fees, or costs incurred pursuant to the collection of any judgment obtained
2 by the ~~department~~ Division of Labor or ~~division~~ Boiler Inspection Division.

3
4 SECTION 5376. Arkansas Code § 20-23-314(b)-(e), concerning pressure
5 piping inspections by the Boiler Inspection Division, are amended to read as
6 follows

7 (b)(1) Upon completion of the installation of any pressure piping, a
8 final inspection shall be made, and the inspector shall complete a final
9 inspection report on a form approved by the Director of the ~~Department~~
10 Division of Labor.

11 (2) A copy of the final inspection report shall be filed with
12 the ~~division~~ Boiler Inspection Division within thirty (30) days of completion
13 of the installation.

14 (c) If the report required by subsection (b) of this section is not
15 filed within thirty (30) days after completion of the installation, the
16 ~~division~~ Boiler Inspection Division shall designate an inspector in its
17 employ to make the inspection and report required by subsection (b) of this
18 section.

19 (d) The inspections and reports required by subsections (a) and (b) of
20 this section may be made by an inspector in the employ of the ~~division~~ Boiler
21 Inspection Division.

22 (e) For each inspection made by an inspector employed by the division
23 and required by subsection (a), subsection (b), or subsection (c) of this
24 section, the holder of the installation permit shall pay the division an
25 inspection fee in the amount of four hundred forty dollars (\$440) per day or
26 two hundred twenty dollars (\$220) per half-day, plus expenses and mileage at
27 the rates authorized for employees of the ~~Department~~ Division of Labor who
28 furnish their own transportation.

29
30 SECTION 5377. Arkansas Code § 20-23-402(c), concerning inspectors
31 employed by insurance companies, is amended to read as follows:

32 (c) Within thirty (30) days following each internal inspection made by
33 its inspectors, each insurance company shall file a copy of the internal
34 inspection report and date of the inspection with the ~~division~~ Boiler
35 Inspection Division on forms approved by the ~~Department~~ Division of Labor.

36

1 SECTION 5378. Arkansas Code § 20-23-404(a)(5), concerning applications
2 for operators by the Boiler Inspection Division, is amended to read as
3 follows:

4 (5) Before the applicant may participate in an examination, he
5 or she shall have had not less than six (6) months of on-the-job training.
6 Proof of this on-the-job training shall be furnished to the ~~Department~~
7 Division of Labor by the employer prior to the examination.

8
9 SECTION 5379. Arkansas Code § 20-23-406(a)(1)(B), concerning a
10 certificate of competency and commission and restricted lifetime licenses, is
11 amended to read as follows:

12 (B) The certificate of competency and commission shall be
13 issued upon satisfactory proof of age and upon payment of a fee prescribed by
14 the ~~Department~~ Division of Labor.

15
16 SECTION 5380. Arkansas Code § 20-23-407(a), concerning owner or user
17 inspection programs for steam boilers or pressure vessels, is amended to read
18 as follows:

19 (a) Any owner or user of a steam boiler or pressure vessel subject to
20 this chapter may perform any inspections required by this chapter on such
21 vessels owned or operated by the owner or user if the owner or user meets the
22 requirements prescribed by regulation of the Director of the ~~Department~~
23 Division of Labor.

24
25 SECTION 5381. Arkansas Code § 20-24-101(2), concerning the definition
26 of "authorized representative" under the laws governing the Elevator Safety
27 Board, is amended to read as follows:

28 (2) "Authorized representative" means the building department of
29 cities, towns, or other governmental subdivisions designated by the
30 ~~Department of Labor~~ Division of Occupational and Professional Licensing
31 Boards and Commissions to enforce certain provisions of this chapter;

32
33 SECTION 5382. Arkansas Code § 20-24-101(5) and (6), concerning
34 definition of "division" and "director" under the laws governing the Elevator
35 Safety Board, are repealed.

36 ~~(5) "Department" means the Department of Labor;~~

1 ~~(6) "Director" means the Director of the Department of Labor;~~

2
3 SECTION 5383. Arkansas Code § 20-24-103(b) and (c), concerning the
4 penalties for violations of the laws governing elevator safety, are amended
5 to read as follows:

6 (b) An action for recovery of the penalties provided by this section
7 shall be instituted by the ~~Department of Labor~~ Division of Occupational and
8 Professional Licensing Boards and Commissions or its authorized
9 representative and shall be in the form of a civil action before a court of
10 competent jurisdiction.

11 (c) In addition to the penalties in subsection (a) of this section,
12 the Director of the ~~Department of Labor~~ Division of Occupational and
13 Professional Licensing Boards and Commissions may petition a court of
14 competent jurisdiction to enjoin or restrain violations of this chapter or a
15 rule adopted by the board.

16
17 SECTION 5384. Arkansas Code § 20-24-104 is amended to read as follows:
18 20-24-104. Enforcement.

19 (a) Except when otherwise provided, the ~~Department of Labor~~ Division
20 of Occupational and Professional Licensing Boards and Commissions shall have
21 the power, and it shall be its duty, to enforce this chapter and the rules
22 and regulations adopted by the Elevator Safety Board.

23 (b) In cities, towns, or other governmental subdivisions having a
24 building department with qualified personnel to enforce this chapter or
25 portions thereof, the Director of the ~~Department of Labor~~ Division of
26 Occupational and Professional Licensing Boards and Commissions may delegate
27 the building department as the authorized representative of the ~~Department of~~
28 ~~Labor~~ Division of Occupational and Professional Licensing Boards and
29 Commissions to enforce and carry out the provisions of §§ 20-24-112 – 20-24-
30 116 or any portion thereof as may be designated by him or her.

31
32 SECTION 5385. Arkansas Code § 20-24-105(a), concerning the creation of
33 the Elevator Safety Board, is amended to read as follows:

34 (a) There is created the Elevator Safety Board, consisting of six (6)
35 members, one (1) of whom shall be the ~~Director~~ Secretary of the Department of
36 Labor and Licensing, who shall serve continuously, and five (5) of whom shall

1 be appointed by the Governor for terms of four (4) years.

2
3 SECTION 5386. Arkansas Code § 20-24-105(d) and (e), concerning the
4 creation of the Elevator Safety Board, are amended to read as follows:

5 (d) The board shall meet at the call of the ~~director~~ secretary who
6 shall designate in the call the time and place of the meeting.

7 (e) The members except the ~~director~~ secretary may receive expense
8 reimbursement and stipends in accordance with § 25-16-901 et seq.

9
10 SECTION 5387. Arkansas Code § 20-24-106(e), concerning the powers and
11 duties of the Elevator Safety Board, is amended to read as follows:

12 (e) It shall also be the duty of the board to hear and decide any
13 appeals from the orders or acts of the Department of Labor and Licensing or
14 its authorized representative as provided in § 20-24-119.

15
16 SECTION 5388. Arkansas Code § 20-24-107(c)(2)(A), concerning adoption
17 and amendment of rules and regulations of the Elevator Safety Board, is
18 amended to read as follows:

19 (2)(A) Any person engaged in the inspection, alteration,
20 construction, repair, or operation of elevators, dumbwaiters, or escalators,
21 or any owner, insurer, or lessee thereof, may, from time to time, by written
22 petition to the ~~Director~~ Secretary of the Department of Labor and Licensing,
23 request that any rules and regulations adopted by the board under subsection
24 (a) of this section be amended, or the ~~director~~ secretary shall refer the
25 petition to the board for its consideration and recommendation.

26
27 SECTION 5389. Arkansas Code § 20-24-108(a)(2)(C)(ii), concerning the
28 qualifications for licenses required by the Elevator Safety Board, is amended
29 to read as follows:

30 (ii) The provision for liability insurance required
31 by subdivision (a)(2)(C)(i) of this section shall not apply to elevator
32 inspectors employed by the ~~Department of Labor~~ Division of Occupational and
33 Professional Licensing Boards and Commissions; and

34
35 SECTION 5390. Arkansas Code § 20-24-109(d)(2), concerning the
36 application and examination for license issuance and renewal, is amended to

1 read as follows:

2 (2) Whenever the board determines that there are not enough
3 licensed elevator mechanics available to perform work necessary for the
4 completion of a project for which the ~~Department of Labor~~ Division of
5 Occupational and Professional Licensing Boards and Commissions has issued a
6 permit under § 20-24-115(d), the board may waive the requirements of this
7 chapter and issue a temporary elevator mechanic license that may be valid for
8 no longer than thirty (30) days.

9

10 SECTION 5391. Arkansas Code § 20-24-110(d), concerning prohibited
11 activities of inspectors of the Elevator Safety Board, is amended to read as
12 follows:

13 (d) On or before the last day of January of each year, all licensed
14 elevator inspectors shall file with the Department of Labor and Licensing a
15 financial disclosure statement on forms provided by the department and
16 approved by the Elevator Safety Board. Such forms shall include, but not be
17 limited to, the following:

18 (1) The name and address of any corporation, firm, or enterprise
19 in which the person has a direct financial interest of a value in excess of
20 one thousand dollars (\$1,000). Policies of insurance issued to himself or
21 herself or his or her spouse are not to be considered a financial interest;

22 (2) A list of every office or directorship held by himself or
23 herself or his or her spouse, in any corporation, firm, or enterprise subject
24 to the jurisdiction of the board;

25 (3) A list showing the name and address of any person,
26 corporation, firm, or enterprise from which the person received compensation
27 in excess of one thousand five hundred dollars (\$1,500) during the preceding
28 year; and

29 (4) A list showing the name and address of any person,
30 corporation, firm, or enterprise from which the persons received compensation
31 in excess of twelve thousand five hundred dollars (\$12,500) during the
32 preceding year.

33

34 SECTION 5392. Arkansas Code § 20-24-112(a)(1)(B), concerning testing
35 and inspection required for elevators, is amended to read as follows:

36 (B) The inspections shall be made by a licensed elevator

1 inspector in the employ of the ~~Department of Labor~~ Division of Occupational
2 and Professional Licensing Boards and Commissions or its authorized
3 representative;

4
5 SECTION 5393. Arkansas Code § 20-24-113(a)(1), concerning the reports
6 of inspection of the Elevator Safety Board, is amended to read as follows:

7 (a)(1) A report of every required inspection or safety test shall be
8 filed with the Department of Labor and Licensing or its authorized
9 representative by the inspector making the inspection or witnessing the test
10 on a form approved by the department or its authorized representative within
11 thirty (30) days after the inspection or test has been completed.

12
13 SECTION 5394. Arkansas Code § 20-24-114 is amended to read as follows:
14 20-24-114. Additional inspections.

15 In addition to required inspections, the Department of Labor and
16 Licensing or its authorized representative may designate a licensed inspector
17 in its employ to make such additional inspections as may be required to
18 enforce this chapter and the rules adopted by the Elevator Safety Board under
19 § 20-24-107(a) and (b).

20
21 SECTION 5395. Arkansas Code § 20-24-115(a)(1), concerning the new
22 construction, relocation, or alteration of elevators, is amended to read as
23 follows:

24 (a)(1) On and after the effective date of rules and regulations
25 adopted by the Elevator Safety Board under § 20-24-107(a) and (b), detailed
26 plans and specifications of the elevator, dumbwaiter, or escalator to be
27 thereafter installed, relocated, or altered shall be submitted by the
28 contractor, or in the absence of an installing contractor, by a person or the
29 owner, to the Department of Labor and Licensing. An application for a
30 construction or alteration permit on forms to be furnished or approved by the
31 department shall be submitted at the same time.

32
33 SECTION 5396. Arkansas Code § 20-24-116(a)(1), concerning the
34 operating permits for elevators, is amended to read as follows:

35 (a)(1) Operating permits shall be issued by the Department of Labor
36 and Licensing within the time limits specified in this section to the owner

1 or lessee of every new or altered elevator, dumbwaiter, and escalator and of
2 every existing elevator, dumbwaiter, and escalator when the inspection report
3 indicates compliance with the applicable sections of this chapter.

4
5 SECTION 5397. Arkansas Code § 20-24-117(a), concerning the fees for
6 elevator installation permits, is amended to read as follows:

7 (a) The following fees shall be paid to the Department of Labor and
8 Licensing for each passenger, freight, or one-man elevator or dumbwaiter
9 installation permit:

10	(1) Elevators	\$150.00
11	(2) Escalators and moving walks	200.00
12	(3) Dumbwaiters	100.00
13	(4) Wheelchair lifts	100.00
14	(5) Workmen's hoists	200.00

15
16 SECTION 5398. Arkansas Code § 20-24-119(a), concerning appeals from
17 orders or acts of the Department of Labor, is amended to read as follows:

18 (a) Any person aggrieved by an order or act of the Department of Labor
19 or Licensing or its authorized representative under this chapter may, within
20 fifteen (15) days after notice thereof, appeal from the order or act to the
21 Elevator Safety Board, which shall, within thirty (30) days thereafter, hold
22 a hearing of which at least fifteen (15) days' written notice shall be given
23 to all interested parties.

24
25 SECTION 5399. Arkansas Code § 20-27-801(b)(1), concerning an exception
26 to leaving the door on automatic locking devices or items, is amended to read
27 as follows:

28 (b)(1) The Labor Safety Administrator of the ~~Department~~ Division of
29 Labor or any of his or her deputies or inspectors shall have the right to
30 remove the door hinges or to dismantle, if necessary, any icebox,
31 refrigerator, or other container that has an air-tight door or lid, snaplock,
32 or other locking device that violates this subchapter.

33
34 SECTION 5400. Arkansas Code § 20-27-802 is amended to read as follows:

35 20-27-802. Inside door handles required on certain walk-in
36 refrigerators, etc.

1 The Labor Safety Administrator of the ~~Department~~ Division of Labor or
2 any of his or her deputies or inspectors may require the installation of
3 inside door handles on any walk-in refrigerator, icebox, freezer, or door of
4 a cold storage room where in his or her discretion the absence of inside door
5 handles in the freezing unit may endanger the life of any employee or other
6 authorized personnel using the unit.

7
8 SECTION 5401. Arkansas Code § 20-27-901(2)(A), concerning the
9 definition of "hazardous locations" under the laws governing safety glazing
10 materials, is amended to read as follows:

11 (2)(A) "Hazardous locations" means those areas in residential,
12 commercial, and public buildings where the use of other than safety glazing
13 materials would constitute a hazard as the Director of the ~~Department~~
14 Division of Labor may determine after notice and hearings as are now required
15 by law.

16
17 SECTION 5402. Arkansas Code § 20-27-1102(a), concerning enforcement,
18 administration, and rules regarding blasting, is amended to read as follows:

19 (a) The Director of the ~~Department~~ Division of Labor shall promulgate
20 regulations to establish minimum standards for the qualifications of those
21 individuals performing blasting in Arkansas.

22
23 SECTION 5403. Arkansas Code § 20-27-1302(2), concerning the
24 definitions of "division" and "director" under the laws governing blasting,
25 are repealed.

26 ~~(4) "Department" means the Department of Labor;~~

27 ~~(5) "Director" means the Director of the Department of Labor;~~

28
29 SECTION 5404. Arkansas Code § 20-27-1303(b)(2)(A), concerning blasting
30 standards, is amended to read as follows:

31 (2)(A) If necessary to prevent damage, the Director of the
32 ~~Department~~ Division of Labor may require lower maximum allowable airblast
33 levels than those specified in subdivision (b)(1) of this section for use in
34 the vicinity of a specific blasting operation.

35
36 SECTION 5405. Arkansas Code § 20-27-1305(a)(2), concerning record

1 keeping for mine operators and owners, is amended to read as follows:

2 (2) Upon request, copies of these records shall be made
3 available to the ~~Department~~ Division of Labor for inspection.

4
5 SECTION 5406. Arkansas Code § 20-27-1306(b), concerning insurance for
6 blasting operations, is amended to read as follows:

7 (b) Proof of such coverage shall be made available to the Director of
8 the ~~Department~~ Division of Labor or his or her authorized representative upon
9 request.

10
11 SECTION 5407. Arkansas Code § 20-27-1307(b), concerning exemptions for
12 owners and operators of mines and quarries, is amended to read as follows:

13 (b) Notwithstanding subsection (a) of this section, the authority of
14 the Director of the ~~Department~~ Division of Labor shall not be restricted with
15 respect to:

16 (1) Mines or quarries which were in existence and operation on
17 July 1, 1995, but which change owners or operators after July 1, 1995; or

18 (2) New or existing mines or quarries which were not in
19 operation on July 1, 1995.

20
21 SECTION 5408. The introductory language of Arkansas Code § 20-27-
22 1308(a), concerning the powers and duties of the Director of the Department
23 of Labor, is amended to read as follows:

24 (a) In addition to other powers and authority provided by law, the
25 Director of the ~~Department~~ Division of Labor or his or her authorized
26 representative shall have the following authority:

27
28 SECTION 5409. Arkansas Code § 20-27-1308(c), concerning the powers and
29 duties of the Director of the Department of Labor, is amended to read as
30 follows:

31 (c) In case of failure of any person to comply with any subpoena
32 lawfully issued under this section or upon the refusal of any witness to
33 produce evidence or to testify to any matter regarding which he or she may be
34 lawfully interrogated, it shall be the duty of any circuit court or judge
35 thereof, upon application of the ~~Department~~ Division of Labor, to compel
36 obedience by proceedings for contempt, as in the case of disobedience of the

1 requirements of a subpoena issued by the court or a refusal to testify
2 therein.

3

4 SECTION 5410. Arkansas Code § 20-27-1309(a) and (b), concerning
5 hearings, orders, and notices conducted by the Director of the Department of
6 Labor, are amended to read as follows:

7 (a) All hearings conducted by the Director of the ~~Department~~ Division
8 of Labor and all orders, notices, and assessments shall conform to the
9 requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et
10 seq.

11 (b) Service of any notice, order, or assessment may be made by
12 delivery to the person to be ordered or notified or by mailing it, postage
13 prepaid, addressed to the person at his or her principal place of business as
14 last of record with the ~~Department~~ Division of Labor.

15

16 SECTION 5411. Arkansas Code § 20-27-1309(c)(2), concerning hearings,
17 orders, and notices conducted by the Director of the Department of Labor, are
18 amended to read as follows:

19 (2) A complainant entitled to notice is any person who has made
20 a written complaint within the past three (3) years to the ~~department~~
21 division regarding the blasting operations of the person charged with the
22 violation.

23

24 SECTION 5412. Arkansas Code § 20-27-1310 is amended to read as
25 follows:

26 20-27-1310. Cooperation with State Fire Marshal.

27 (a) The Director of the ~~Department~~ Division of Labor shall consult the
28 State Fire Marshal regarding the adoption of any rules or regulations.

29 (b) The ~~Department~~ Division of Labor and the State Fire Marshal shall
30 cooperate and coordinate their activities in order to avoid duplication of
31 services.

32

33 SECTION 5413. Arkansas Code § 20-27-1311(b), concerning orders,
34 remedies and existing rules and regulations, is amended to read as follows:

35 (b) All orders entered, permits granted, and pending legal proceedings
36 instituted by any person, public or private, relating to subjects embraced

1 within this subchapter shall remain unimpaired and in full force and effect
2 until superseded by actions taken by the Director of the ~~Department~~ Division
3 of Labor under this subchapter.

4
5 SECTION 5414. Arkansas Code § 20-27-1313(a)(1), concerning the
6 assessment of civil penalties under the Arkansas Quarry and Open Pit Mine
7 Blasting Control Act, is amended to read as follows:

8 (a)(1) Any person who violates any provision of this subchapter or who
9 violates any rule, regulation, or order issued under this subchapter may be
10 assessed an administrative civil penalty by the Director of the ~~Department~~
11 Division of Labor in an amount not to exceed ten thousand dollars (\$10,000)
12 per violation.

13
14 SECTION 5415. Arkansas Code § 20-27-1313(d)(1), concerning the
15 assessment of civil penalties under the Arkansas Quarry and Open Pit Mine
16 Blasting Control Act, is amended to read as follows:

17 (d)(1) Sums collected as reimbursement for expenses, costs, and
18 damages to the ~~Department~~ Division of Labor shall be deposited into the
19 operating fund of the ~~department~~ division.

20
21 SECTION 5416. Arkansas Code § 20-27-1313(e), concerning the assessment
22 of civil penalties under the Arkansas Quarry and Open Pit Mine Blasting
23 Control Act, is amended to read as follows:

24 (e) Notice of any assessment by the director shall be served on any
25 person who has made a written complaint within the past three (3) years to
26 the ~~department~~ division regarding the blasting operations of the person
27 charged with the violation.

28
29 SECTION 5417. Arkansas Code § 20-27-1314 is amended to read as
30 follows:

31 20-27-1314. Restraint.

32 In addition to the civil penalty provided in § 20-27-1313, the Director
33 of the ~~Department~~ Division of Labor may petition any court of competent
34 jurisdiction without paying costs or giving bond for costs to:

35 (1)(A) Enjoin or restrain any violation of or compel compliance
36 with this subchapter and any rules, regulations, or orders issued under this

1 subchapter.

2 (B) In situations in which there is an imminent threat to
3 public or worker safety or to property, the director may seek a temporary
4 restraining order for the cessation of any blasting;

5 (2) Affirmatively order that such remedial measures be taken as
6 may be necessary or appropriate to implement or effectuate the purposes and
7 intent of this subchapter; and

8 (3) Recover all costs, expenses, and damages to the ~~Department~~
9 Division of Labor and any other agency or subdivision of the state in
10 enforcing or effectuating this subchapter.

11

12 SECTION 5418. Arkansas Code § 20-31-102(2), concerning the definition
13 of "department" under the Arkansas Electrical Code Authority Act, is
14 repealed.

15 ~~(2) "Department" means the Department of Labor;~~

16

17 SECTION 5419. Arkansas Code § 20-31-104(f), concerning statewide
18 standards and the enforcement of rules for the Board of Electrical Examiners
19 of the State of Arkansas, is amended to read as follows:

20 (f) It shall be the duty of the ~~Department~~ Division of Labor to
21 administer and enforce this chapter.

22

23 SECTION 5420. Arkansas Code § 22-9-212(b), concerning public
24 improvements to trench or excavation safety systems, is amended to read as
25 follows:

26 (b) In the event a contractor fails to complete a separate pay item in
27 accordance with the applicable provisions of subsection (a) of this section,
28 the agency, county, municipality, school district, local taxing unit, or
29 improvement district shall declare that the bid fails to comply fully with
30 the provisions of the specifications and bid documents and will be considered
31 invalid as a nonresponsive bid. The owners of the above-stated project shall
32 notify the Safety Division of the ~~Department~~ Division of Labor of the award
33 of a contract covered by this section.

34

35 SECTION 5421. Arkansas Code § 23-89-502(3), concerning the definition
36 of "department" under the Amusement Ride and Amusement Attraction Safety

1 Insurance Act, are repealed.

2 ~~(3) "Department" means the Department of Labor;~~

3 ~~(4) "Director" means the Director of the Department of Labor;~~

4

5 SECTION 5422. Arkansas Code § 23-89-504 is amended to read as follows:

6 23-89-504. Safety inspection and insurance required – Enforcement –
7 Violations.

8 (a) It is unlawful for any person or entity to operate an amusement
9 attraction or amusement ride unless the person or entity maintains liability
10 insurance in the minimum amount required by this subchapter at all times
11 during the operation of the amusement attraction or amusement ride in the
12 state and unless the person has a current safety inspection report made at
13 the time of set-up of the amusement attraction or amusement ride, but before
14 use by the public.

15 (b)(1) The Director of the ~~Department~~ Division of Labor may conduct
16 examinations and investigations into the affairs of any person or entity
17 subject to the provisions of this subchapter for the purpose of determining
18 compliance with the provisions of this subchapter.

19 (2) The Director of the ~~Department~~ Division of Labor shall
20 administer and enforce the provisions of this subchapter.

21 (3) The Director of the ~~Department~~ Division of Labor shall
22 promulgate regulations for the proper administration and enforcement of this
23 subchapter, including regulations establishing minimum safety requirements
24 for the operation and maintenance of amusement rides and amusement
25 attractions.

26 (4) The Director of the ~~Department~~ Division of Labor shall
27 employ amusement ride inspectors certified by the National Association of
28 Amusement Ride Safety Officials.

29 (c) If the Director of the ~~Department~~ Division of Labor finds that an
30 operator or owner has failed to comply with the provisions of this
31 subchapter, he or she may order the operator or owner to immediately cease
32 operating the amusement attraction or amusement ride and may impose upon the
33 operator or owner an administrative penalty of not more than ten thousand
34 dollars (\$10,000).

35 (d)(1) If the Director of the ~~Department~~ Division of Labor finds that
36 an operator or owner failed to comply with the provisions of this subchapter,

1 he or she shall so inform the prosecuting attorney in whose district any
2 purported violation may have occurred.

3 (2)(A) Upon conviction, the operator or owner shall be guilty of
4 a Class A misdemeanor.

5 (B) Upon conviction of a knowing violation, the operator
6 or owner shall be guilty of a Class D felony.

7 (3) Each day of violation shall constitute a separate offense.

8 (e) The Director of the ~~Department~~ Division of Labor shall have
9 authority to bring a civil action in any court of competent jurisdiction,
10 without payment of costs or giving bond for costs, to recover any
11 administrative penalty imposed pursuant to this subchapter or to recover any
12 delinquent fees owed pursuant to this subchapter.

13 (f) The Director of the ~~Department~~ Division of Labor and his or her
14 deputies, assistants, examiners, and employees and the Director of the
15 ~~Department~~ Division of Arkansas State Police and his or her deputies,
16 officers, assistants, and employees and any public law enforcement officer
17 shall not be liable for any damages occurring as a result of the
18 implementation of this subchapter.

19

20 SECTION 5423. Arkansas Code § 23-89-505(a), concerning safety
21 inspections, notice, and insurance requirements under the Amusement Ride and
22 Amusement Attraction Safety Insurance Act, is amended to read as follows:

23 (a) Any person or entity desiring to operate any amusement attraction
24 or amusement ride in this state, other than those specifically exempted in
25 this subchapter, shall as a condition thereof obtain a safety inspection
26 report issued by the owner or operator's liability insurer or an inspector
27 employed by the ~~Department~~ Division of Labor prior to commencing operation or
28 opening to the public.

29

30 SECTION 5424. Arkansas Code § 23-89-505(c)(1), concerning safety
31 inspections, notice, and insurance requirements under the Amusement Ride and
32 Amusement Attraction Safety Insurance Act, is amended to read as follows:

33 (c)(1) Any person or entity intending to operate an amusement
34 attraction or amusement ride in this state shall notify the Director of the
35 ~~Department~~ Division of Labor of such intent and shall notify the director of
36 the location, dates, and times of intended operation.

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SECTION 5425. Arkansas Code § 23-89-506(a)(1), concerning inspections and fees, is amended to read as follows:

(a)(1) The Director of the ~~Department~~ Division of Labor is authorized to inspect each person or entity to ensure compliance with this subchapter.

SECTION 5426. Arkansas Code § 23-89-506(c)-(e), concerning inspections and fees, are amended to read as follows:

(c) If the director or an authorized employee of the ~~Department~~ Division of Labor finds that any amusement ride or amusement attraction is defective in a manner affecting patron safety or unsafe, he or she shall attach to the amusement ride or amusement attraction a notice and order prohibiting its use or operation. Operation of the amusement ride shall not resume until the unsafe or hazardous condition is corrected and the director or his or her authorized representative permits such an operation.

(d) Any inspector certified pursuant to the requirements of this subchapter who, upon inspection of an amusement ride or amusement attraction, finds the amusement ride or amusement attraction to be defective or unsafe shall immediately report the amusement ride or amusement attraction and its condition to the ~~department~~ division.

(e) The director shall charge a fee to be paid by the owner of any amusement ride or amusement attraction for all amusement ride safety inspections performed by any employee of the ~~department~~ division. Such fees shall be as follows:

(1) For one (1) to five (5) amusement rides or amusement attractions, one hundred dollars (\$100);

(2) For six (6) to fifteen (15) amusement rides or amusement attractions, two hundred dollars (\$200);

(3) For sixteen (16) to twenty-five (25) amusement rides or amusement attractions, three hundred dollars (\$300);

(4) For twenty-six (26) to thirty-five (35) amusement rides or amusement attractions, four hundred dollars (\$400); and

(5) For thirty-six (36) and more amusement rides or amusement attractions, six hundred dollars (\$600).

SECTION 5427. Arkansas Code § 23-89-507(b), concerning a change in

1 coverage by an insurance company under the Amusement Ride and Amusement
2 Attraction Safety Insurance Act, is amended to read as follows:

3 (b) If any insurer insuring an operator shall cancel the coverage of
4 the operator, the insurer shall notify the Director of the ~~Department~~
5 Division of Labor of the cancellation at least ten (10) days before the
6 cancellation is effective.

7
8 SECTION 5428. Arkansas Code § 23-89-507(f), concerning a change in
9 coverage by an insurance company under the Amusement Ride and Amusement
10 Attraction Safety Insurance Act, is amended to read as follows:

11 (f) Any employee or contractor of an insurer inspecting amusement
12 rides in Arkansas shall be registered and certified by the ~~Department~~
13 Division of Labor pursuant to regulation adopted by the director.

14
15 SECTION 5429. Arkansas Code § 23-89-508 is amended to read as follows:
16 23-89-508. Rules and regulations.

17 The Director of the ~~Department~~ Division of Labor is authorized to adopt
18 appropriate rules and regulations to carry out the intent and purposes of
19 this subchapter and to assure its efficient and effective enforcement.

20
21 SECTION 5430. Arkansas Code § 23-89-509 is amended to read as follows:
22 23-89-509. Cease and desist orders – Notice required.

23 (a)(1) Upon issuance of cease and desist orders pursuant to § 23-89-
24 504 or § 23-89-507, the Director of the ~~Department~~ Division of Labor shall
25 promptly transmit his or her order to the Director of the ~~Department~~ Division
26 of Arkansas State Police.

27 (2) Whenever possible, the Director of the ~~Department~~ Division
28 of Labor shall notify any applicable fair boards or sponsoring organizations
29 in the respective districts or counties of this state where the amusement
30 attractions or amusement rides are in operation or are scheduled to be in
31 operation.

32 (3) The Director of the ~~Department~~ Division of Labor shall
33 promptly notify these parties when a cease and desist order has been
34 rescinded upon proof of the operator's compliance with the provisions of this
35 subchapter.

36 (b) Upon receipt of the Director of the ~~Department~~ Division of Labor's

1 order to cease and desist operations pursuant to subsection (a) of this
2 section, the ~~Department~~ Division of Arkansas State Police shall promptly
3 serve the order on the operator and order the operator immediately to cease
4 operation of all applicable amusement attractions or amusement rides in
5 operation or scheduled to be in operation in those districts or counties
6 until the cease and desist order has been rescinded.

7
8 SECTION 5431. Arkansas Code § 23-89-510 is amended to read as follows:

9 23-89-510. Accidents – Reporting injuries or death – Investigations.

10 (a) Any mechanical, structural, or electrical defects directly
11 affecting patron safety for which an amusement ride is closed to patron use
12 for a period of time more than three (3) hours must be reported in writing
13 personally or by facsimile by the owner or operator to the ~~Department~~
14 Division of Labor within twenty-four (24) hours after the closing of the
15 amusement ride.

16 (b)(1) The operator of an amusement ride shall immediately cease to
17 operate any ride involved in a fatality or serious physical injury. The owner
18 or operator shall notify the ~~department~~ division of such an accident within
19 four (4) hours of its occurrence by telephone or facsimile. The owner or
20 operator shall file a written accident report personally or by facsimile with
21 the ~~department~~ division within twenty-four (24) hours of the accident. Within
22 twenty-four (24) hours after receipt of such a report, the ~~department~~
23 division shall initiate an investigation of the occurrence and an inspection
24 of the ride. The ~~department~~ division shall perform the inspection in a manner
25 that proceeds with all practicable speed and minimizes the disruption of the
26 amusement facility at which the amusement ride is located.

27 (2) Unless authorized in writing by the ~~department~~ division, no
28 amusement ride may be operated, moved, altered, repaired, or tampered with,
29 except to protect life, limb, and property following an accident involving a
30 serious injury or death until the ~~department~~ division has completed its
31 inspection and investigation.

32
33 SECTION 5432. Arkansas Code § 23-89-515(b), concerning nondestructive
34 testing under the Amusement Ride and Amusement Attraction Safety Insurance
35 Act, is amended to read as follows:

36 (b)(1) If a manufacturer's nondestructive testing standards are

1 unavailable for an amusement ride and the ~~Department~~ Division of Labor deems
2 it necessary, the owner shall provide the standards through a professional
3 engineer as defined in § 17-30-101, an engineering agency, or an individual
4 qualified by training and experience to compile standards based on the ride's
5 specifications and history and using accepted engineering practices.

6 (2) The professional engineer or other qualified individual
7 shall be approved by the Director of the ~~Department~~ Division of Labor.

8 (3) The amusement ride shall meet the criteria established under
9 this subsection.

10
11 SECTION 5433. Arkansas Code § 23-89-516(a), concerning records under
12 the Amusement Ride and Amusement Attraction Safety Insurance Act, is amended
13 to read as follows:

14 (a) The Director of the ~~Department~~ Division of Labor shall keep
15 records and statistics by year of serious injuries and fatalities resulting
16 from amusement ride accidents. Such records and statistics shall specify the
17 year of the accident, type of injury, type of amusement ride or amusement
18 attraction involved, and cause of the accident.

19
20 SECTION 5434. Arkansas Code § 23-89-516(b)(2), concerning records
21 under the Amusement Ride and Amusement Attraction Safety Insurance Act, is
22 amended to read as follows:

23 (2) The latest safety inspection report by the ~~Department~~
24 Division of Labor and by the owner or operator's insurer;

25
26 SECTION 5435. Arkansas Code § 23-89-517 is amended to read as follows:
27 23-89-517. Disposition of funds.

28 All money received under the provisions of this subchapter shall be
29 deposited into the State Treasury to the credit of the Department of Labor
30 and Licensing Special Fund.

31
32 SECTION 5436. Arkansas Code § 23-89-518(a)(2)(B), concerning the
33 creation of the Amusement Ride Safety Advisory Board, is amended to read as
34 follows:

35 (B) The Director of the ~~Department~~ Division of Labor or
36 his or her designee shall be ex officio chair.

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SECTION 5437. Arkansas Code § 23-89-518(a)(2)(C)(i), concerning the creation and duties of the Amusement Ride Safety Advisory Board, is amended to read as follows:

(i) One (1) member of the board shall be the ~~Director~~ Secretary of the Department of Parks, Heritage, and Tourism or his or her designee;

SECTION 5438. Arkansas Code § 23-89-518(a)(3)(A), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

(3)(A) Except for the Director of the ~~Department~~ Division of Labor and the ~~Director~~ Secretary of the Department of Parks, Heritage, and Tourism, the terms of office of the members shall be for four (4) years or until a successor is appointed.

SECTION 5439. Arkansas Code § 23-89-518(b), concerning the creation of the Amusement Ride Safety Advisory Board, is amended to read as follows:

(b) The duties of the board shall be:

(1) To assist the Director of the ~~Department~~ Division of Labor with the formulation of rules and regulations regarding the safe operation of amusement rides; and

(2) To give the ~~Department~~ Division of Labor such counsel and advice as will aid it in the proper enforcement and administration of the provisions of this subchapter.

SECTION 5440. Arkansas Code § 23-89-518(c), concerning the creation and the duties of Amusement Ride Safety Advisory Board, is amended to read as follows:

(c) Except for the ex officio chair and the ~~Director~~ Secretary of the Department of Parks, Heritage, and Tourism, the members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

SECTION 5441. Arkansas Code § 23-112-202(c)(1), concerning the proceedings and bond of members of the Arkansas Motor Vehicle Commission, is

1 amended to read as follows:

2 (c)(1) The commission shall purchase either a blanket position honesty
3 or faithful performance bond from some surety company authorized to do
4 business in this state. This bond shall be in the penal sum of ten thousand
5 dollars (\$10,000), made payable to the State of Arkansas, conditioned for the
6 honest and faithful performance of the duties of the chair and each member of
7 the commission, and the Executive Director of the Arkansas Motor Vehicle
8 Commission, and all other employees of the commission, the bond to be
9 approved by the Governor and filed in the office of the Secretary of State.

10

11 SECTION 5442. Arkansas Code § 23-112-203 is amended to read as
12 follows:

13 23-112-203. ~~Executive director—Employees—Office~~ Director of
14 Arkansas Motor Vehicle Commission.

15 (a)(1) The Arkansas Motor Vehicle Commission in consultation with the
16 Secretary of the Department of Labor and Licensing shall ~~appoint~~ employ a
17 qualified person to serve as ~~executive director thereof~~ Director of the
18 Arkansas Motor Vehicle Commission, to serve at the pleasure of the
19 commission, and shall fix his or her salary and shall define and prescribe
20 the duties of the director.

21 (2) The ~~Executive~~ Director of the Arkansas Motor Vehicle
22 Commission shall be in charge of the ~~commission's~~ office of the Arkansas
23 Motor Vehicle Commission and shall devote such time to the duties thereof as
24 may be necessary.

25 (3) The duties of the director shall include, but shall not be
26 limited to, the collection of all fees and charges under the provisions of
27 this chapter, keeping a record of all proceedings of the commission, and
28 keeping an accurate account of all moneys received and disbursed by the
29 commission, all of which records shall be considered as public records.

30 (b) The commission may employ in consultation with the secretary such
31 clerical and professional help and incur such expenses as may be reasonably
32 necessary for the proper discharge of its duties under this chapter.

33 (c) Except as provided in this chapter, the commission shall maintain
34 its office and transact its business at Little Rock.

35

36 SECTION 5443. Arkansas Code Title 25, Chapter 12, is repealed.

~~25-12-101. Continuation—Director—Organization—Personnel.~~

~~(a) The Department of Labor, created by § 11-2-101 et seq., is continued.~~

~~(b) The executive head of the department shall be the Director of the Department of Labor. The director shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure of the Governor.~~

~~(c) The department shall consist of those divisions which existed as of July 1, 1971, and any other divisions which may be created by law and placed under the department.~~

~~(d) The director, with the advice of and consent of the Governor, shall appoint the heads of the respective divisions. All other personnel of the department shall be employed by and serve at the pleasure of the director. Provided, nothing in this section shall be so construed as to reduce any right which an employee of the department may have under any civil service or merit system.~~

~~(e) Each division of the department shall be under the direction, control, and supervision of the director. The director may delegate his or her functions, powers, and duties to various divisions of the department as he or she shall deem desirable and necessary for the effective and efficient operation of the department.~~

SECTION 5444. Arkansas Code Title 25, Chapter 43, is amended to add an additional subchapter to read as follows:

Subchapter 12 – Department of the Military

25-43-1201. Department of the Military – Creation.

There is created the Department of the Military as a cabinet-level department.

25-43-1202. State entities transferred to Department of the Military.

(a) The administrative functions of the following state entities are transferred to the Department of the Military by a cabinet-level department transfer:

(1) The Bureau of War Records, created under § 12-61-123; and

(2) The State Military Department, created under the Acts 1929, No. 85, and established as an independent agency by Acts 1981, No. 45 § 4,

1 now to be known as the Department of the Military.

2 (b) Unless otherwise provided by law, a cabinet-level department
3 transfer under subsection (a) of this section includes all state entities
4 under a state entity transferred to the Department of the Military under
5 subsection (a) of this section, including without limitation a division,
6 office, program, or other unit of a state entity transferred to the
7 Department of the Military under subsection (a) of this section.

8 (c) Unless otherwise provided by law, a state entity whose
9 administrative functions have been transferred to Department of the Military
10 under subsection (a) of this section shall otherwise continue to exercise the
11 duties of the state entity under the administration of the cabinet-level
12 Department of the Military in the same manner as before the creation of the
13 cabinet-level department.

14
15 25-43-1203. Secretary of the Department of the Military.

16 (a) The executive head of the Department of the Military is the
17 Secretary of the Department of the Military.

18 (b) The secretary shall be appointed by the Governor, subject to
19 confirmation by the Senate, and shall serve at the pleasure of the Governor.

20 (c) Each division of the department shall be under the direction,
21 control, and supervision of the secretary.

22 (d) The secretary may delegate his or her functions, powers, and
23 duties to various divisions or employees of the department as he or she shall
24 deem desirable and necessary for the effective and efficient operation of the
25 department.

26 (e) The secretary may, unless otherwise provided by law:

27 (1) Hire department personnel;

28 (2) Perform or assign duties assigned to the department; and

29 (3) Serve as the director or the administrative or executive
30 head of any state entity under the administrative control of the department
31 if the secretary also meets all statutory requirements for the position.

32 (f) The secretary shall also be the Adjutant General and shall meet
33 all of the qualifications to hold that position.

34
35 SECTION 5445. Arkansas Code § 6-60-214(h), concerning tuition benefits
36 for soldiers and airmen of the Arkansas National Guard, is amended to read as

1 follows:

2 (h)(1) The Adjutant General, in coordination with the ~~Department~~
3 Division of Higher Education, shall promulgate rules for the implementation
4 of this section, including without limitation rules for the eligibility of
5 soldiers and airmen.

6 (2) The ~~State Military~~ Department of the Military and the
7 ~~Department~~ Division of Higher Education shall meet regularly to monitor and
8 measure the success of this section, including without limitation to assess
9 graduation rates of the soldiers and airmen under this section.

10

11 SECTION 5446. Arkansas Code § 12-61-106(a), concerning the powers and
12 duties of the Adjutant General, is amended to read as follows:

13 (a) In addition to being a state staff officer, the Adjutant General
14 shall be the Chief-of-Staff to the Commander-in-Chief and the ~~administrative~~
15 ~~head of the Military Department~~ Secretary of the Department of the Military.

16

17 SECTION 5447. Arkansas Code § 12-61-107(b)(2), concerning the
18 employment of personnel, is amended to read as follows:

19 (2) This subsection shall only apply to a person who begins
20 employment with the State Military Department after August 12, 2005 and with
21 the Department of the Military after July 1, 2019.

22

23 SECTION 5448. Arkansas Code § 12-61-121(a)(3), concerning awards and
24 medals for exceptional or meritorious service, is amended to read as follows:

25 (3) The ~~State Military Department~~ Department of the Military is
26 authorized to promulgate necessary rules and regulations to establish the
27 criteria under which any medal, ribbon, or decoration may be awarded.

28

29 SECTION 5449. Arkansas Code § 12-61-124 is amended to read as follows:

30 12-61-124. ~~Civilian juvenile student training programs~~ National Guard
31 Youth Challenge Program.

32 (a) The Adjutant General may, at his or her discretion and with such
33 funds as may be appropriated by the General Assembly, or with such funds as
34 may be provided by the United States, develop and implement ~~civilian juvenile~~
35 ~~student training programs~~ a National Guard Youth Challenge Program for the
36 purpose of providing training, education, health, welfare, rehabilitative,

1 and other services to juveniles.

2 (b) The Adjutant General is authorized to enter into agreements,
3 contracts, and memoranda of understanding with other state, federal, and
4 local agencies, other persons, firms, and corporations, ~~and the juvenile~~
5 ~~courts of this state~~ for the purposes of providing training, education,
6 health, welfare, rehabilitative, and other services to juveniles
7 participating in ~~such programs~~ the program.

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

11 ~~(d)(1) Juvenile participants in the Civilian Student Training Program~~
12 ~~receiving services from the Arkansas National Guard are authorized to receive~~
13 ~~a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray~~
14 ~~personal hygiene and other personal necessities. Juvenile participants are~~
15 ~~authorized to receive uniforms and clothing items as determined by the staff~~
16 ~~to be appropriate for effective participation in outdoor activities.~~

17 ~~(2) Transportation to support Civilian Student Training Program~~
18 ~~activities for juvenile participants and staff may be provided by commercial~~
19 ~~lease/purchase of motor vehicles not to exceed six (6) vehicles.~~

20

21 SECTION 5450. Arkansas Code § 12-61-127 is repealed.

22 ~~12-61-127. Civilian Student Training Program—Stipend.~~

23 ~~(a) Juvenile participants in the Civilian Student Training Program at~~
24 ~~Camp Joseph T. Robinson receiving services from the Arkansas National Guard~~
25 ~~are authorized to receive a monetary stipend, not to exceed ten dollars~~
26 ~~(\$10.00) per week to defray personal hygiene and other personal necessities.~~

27 ~~(b) Juvenile participants are authorized to receive uniforms and~~
28 ~~clothing items as determined by the staff to be appropriate for effective~~
29 ~~participation in outdoor activities.~~

30

31 SECTION 5451. Arkansas Code § 12-61-128 is repealed.

32 ~~12-61-128. Civilian Student Training Program—Transportation.~~

33 ~~Transportation to support Civilian Student Training Program activities~~
34 ~~for juvenile participants and staff may be provided by commercial lease or~~
35 ~~purchase of motor vehicles not to exceed six (6) vehicles.~~

36

1 SECTION 5452. Arkansas Code § 12-63-209(a), concerning the penalty for
2 criminal trespass upon a military reservation, is amended to read as follows:

3 (a) A person commits the offense of criminal trespass upon a military
4 reservation if he or she purposefully, and without authority, enters upon or
5 remains unlawfully upon any military reservation, military armory, or other
6 military building or property owned, leased, licensed, operated, occupied,
7 maintained, or under the control or management of the State of Arkansas under
8 the control and management of the ~~State Military Department~~ Department of the
9 Military.

10
11 SECTION 5453. Arkansas Code § 12-63-406(b)(4), concerning the tax
12 exemption for canteen inventory and sales, is amended to read as follows:

13 (4) Full-time employees of the ~~State Military Department~~
14 Department of the Military;

15
16 SECTION 5454. Arkansas Code § 12-63-407(d)(2)(B), concerning the Camp
17 Joseph T. Robinson and Fort Chaffee canteens, is amended to read as follows:

18 (B) Full-time employees of the ~~Arkansas Department~~
19 Department of the Military and the United States Department of Defense;

20
21 SECTION 5455. Arkansas Code § 12-64-110 is amended to read as follows:

22 12-64-110. Appropriations – ~~State Military Department~~ Department of
23 the Military Fund Account.

24 (a) There shall be appropriated annually, for the ~~military department~~
25 Department of the Military, the sum of twenty thousand dollars (\$20,000) for
26 the State Judge Advocate to pay for the administration of military justice.

27 (b) For the foregoing purposes, there is created in the State Treasury
28 a fund to be designated the ~~State Military Department~~ "Department of the
29 Military Fund Account-Military Justice Fund", from which expenses of military
30 justice shall be paid in the amounts and manner prescribed by law.

31
32 SECTION 5456. Arkansas Code § 12-64-518(e), concerning the issuance of
33 process and subpoenas, is amended to read as follows:

34 (e) Any sheriff, constable, jailer, marshal, or other civil officer
35 named in this code, who shall neglect or refuse to obey, execute, or return
36 the lawful warrant or other process of a military court or make a false

1 return thereon, shall be guilty of a misdemeanor and in addition to the
2 penalties attaching thereto, shall forfeit fifty dollars (\$50.00) for each
3 offense or neglect of duty, the money to be recovered in a civil action
4 against the officer and his or her official sureties by the Attorney General
5 for the benefit of the ~~State Military Department~~ Department of the Military
6 Fund.

7
8 SECTION 5457. Arkansas Code § 12-64-609(c)(1), concerning fines and
9 forfeitures, is amended to read as follows:

10 (c)(1) Notwithstanding any other law, a fine or penalty imposed by a
11 military court upon an officer or enlistee shall be paid by the officer
12 collecting it within thirty (30) days to the Treasurer of State ~~of Arkansas~~
13 and shall become a part of, be credited to, and be spent from, the ~~State~~
14 ~~Military Department~~ Department of the Military Fund.

15
16 SECTION 5458. Arkansas Code § 12-64-610 is amended to read as follows:
17 12-64-610. Delinquent fines or forfeitures.

18 (a)(1) When a fine or forfeiture is delinquent for a period of ninety
19 (90) days or more, the ~~State Military Department~~ Department of the Military
20 shall have a cause of action against the person and property liable for the
21 delinquent portion of the fine or forfeiture, costs of collection, penalties,
22 and interest to which the ~~State Military Department~~ Department of the
23 Military is entitled, plus a reasonable attorney's fee.

24 (2) The ~~State Military Department~~ Department of the Military
25 shall have a lien on all property subject to forfeiture.

26 (b) The action shall be brought in the Pulaski County Circuit Court.

27 (c) The judgment awarded the ~~State Military Department~~ Department of
28 the Military under this section shall be enforceable to the same extent and
29 in the same manner as other civil judgments.

30
31 SECTION 5459. Arkansas Code § 17-105-106(4), concerning the exemption
32 from licensure of a physician assistant, is amended to read as follows:

33 (4) A physician assistant in the service of the ~~State Military~~
34 ~~Department~~ Department of the Military or the Arkansas National Guard, or
35 both. These physician assistants shall be allowed to perform their physician
36 assistant practice duties, including prescribing, in the same manner as they

1 would if federalized by the United States Government;

2
3 SECTION 5460. Arkansas Code § 19-5-1007 is amended to read as follows:
4 19-5-1007. Special Military Fund.

5 (a) There is established on the books of the Treasurer of State, the
6 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
7 known as the "Special Military Fund".

8 (b) The Special Military Fund is to consist of federal reimbursement
9 received on account of eligible expenditures by the ~~State Military Department~~
10 Department of the Military and shall be used to provide funding wholly or
11 partially for appropriations made payable from the Special Military Fund and
12 to provide supplemental support, to the extent necessary, to the ~~State~~
13 ~~Military Department~~ Department of the Military Fund Account of the State
14 General Government Fund, there to be used solely for the programs of the
15 department.

16
17 SECTION 5461. Arkansas Code § 19-5-1095(b)(1)(B), concerning the
18 Military Support Revolving Fund, is amended to read as follows:

19 (B) All moneys received by the ~~State Military Department~~
20 Department of the Military from the United States Army, the United States Air
21 Force, the United States Navy, foreign allied governments, and reserve forces
22 of the United States, allied nations, and other federal agencies.

23
24 SECTION 5462. The introductory language of Arkansas Code § 21-4-
25 204(a)(2), concerning the accrual and use of annual leave, is amended to read
26 as follows:

27 (2) Each fire and emergency service employee of the ~~State~~
28 ~~Military Department~~ Department of the Military who works a regularly
29 scheduled shift of more than forty-seven (47) hours per week is entitled to
30 annual leave with full pay computed on the basis of the following schedule
31 for each complete month of service:

32
33 SECTION 5463. Arkansas Code § 21-4-207(a)(1)(B), concerning the
34 accrual and use of sick leave, is amended to read as follows:

35 (B) Each fire and emergency service employee of the ~~State~~
36 ~~Military Department~~ Department of the Military who works a regularly

1 scheduled shift of more than forty-seven (47) hours per week is entitled to
2 sick leave with full pay computed on the basis of one (1) day and four (4)
3 hours for each complete month of service.

4
5 SECTION 5464. Arkansas Code § 24-4-1004(a), concerning determination
6 of benefits for civilian firefighters of the State Military Department, is
7 amended to read as follows:

8 (a) For purposes of determining benefits under this chapter, all
9 credited service, whenever earned, of persons employed as civilian
10 firefighters of the State Military Department or Department of the Military
11 as of July 1, 1997, and of persons thereafter employed in those positions
12 shall be treated as public safety member service if the position is one
13 hundred percent (100%) federally funded.

14
15 SECTION 5465. Arkansas Code Title 25, Chapter 43, is amended to add an
16 additional subchapter to read as follows:

17 Subchapter 13 – Department of Parks, Heritage, and Tourism

18
19 25-43-1301. Department of Parks, Heritage, and Tourism.

20 There is created the Department of Parks, Heritage, and Tourism as a
21 cabinet-level department.

22
23 25-43-1302. State entities transferred to Department of Parks,
24 Heritage, and Tourism.

25 (a) The administrative functions of the following state entities are
26 transferred to the Department of Parks, Heritage, and Tourism by a cabinet-
27 level transfer:

28 (1) The Advisory Council of the Arkansas Arts Council, created
29 under § 13-8-103;

30 (2) The Arkansas Arts Council, created under § 13-8-103;

31 (3) The Arkansas Historic Preservation Program, created under §
32 13-7-106;

33 (4) The Arkansas History Commission, created under § 13-3-102;

34 (5) The Arkansas Natural and Cultural Heritage Advisory
35 Committee, created under § 25-3-104;

36 (6) The Arkansas Natural and Cultural Resources Council, created

1 under § 15-12-101;

2 (7) The Arkansas Natural Heritage Commission, created under §
3 15-20-304;

4 (8) The Arkansas Post Museum, created under § 13-5-601;

5 (9) The Arkansas State Archives, created under § 13-3-101;

6 (10) The Black History Commission of Arkansas, created under §
7 13-3-201;

8 (11) The Capitol Zoning District Commission, created under § 22-
9 3-303;

10 (12) The Delta Cultural Center Policy Advisory Board, created
11 under § 13-5-704;

12 (13) The Department of Arkansas Heritage, created under § 25-3-
13 102, now to be known as the Division of Arkansas Heritage;

14 (14) The Department of Parks and Tourism, created under § 25-13-
15 101, now to be known as the Department of Parks, Heritage, and Tourism, the
16 State Parks Division, and the Tourism Division as provided under the
17 Transformation and Efficiencies Act of 2019;

18 (15) The Great River Road Division, created under § 25-13-102;

19 (16) The Historic Arkansas Museum Commission, created under §
20 13-7-302;

21 (17) The Keep Arkansas Beautiful Commission, created under § 15-
22 11-601;

23 (18) The Mosaic Templars of America Center for African-American
24 Cultural and Business Enterprise Advisory Board, created under § 13-5-903;

25 (19) The Mosaic Templars of America Center for African-American
26 Cultural and Business Enterprise, created under § 13-5-902;

27 (20) The Old State House Commission, created under § 13-7-201;

28 and

29 (21) The State Parks, Recreation, and Travel Commission, created
30 under § 15-11-201.

31 (b) Unless otherwise provided by law, a cabinet-level department
32 transfer under subsection (a) of this section includes all state entities
33 under a state entity transferred to the Department of Parks, Heritage, and
34 Tourism under subsection (a) of this section, including without limitation a
35 division, office, program, or other unit of a state entity transferred to the
36 Department of Parks, Heritage, and Tourism under subsection (a) of this

1 section.

2 (c) Unless otherwise provided by law, a state entity whose
3 administrative functions have been transferred to Department of Parks,
4 Heritage, and Tourism under subsection (a) of this section shall otherwise
5 continue to exercise the duties of the state entity under the administration
6 of the cabinet-level Department of Parks, Heritage, and Tourism in the same
7 manner as before the creation of the cabinet-level department.

8

9 25-43-1303. Secretary of the Department of Parks, Heritage, and
10 Tourism.

11 (a) The executive head of the Department of Parks, Heritage, and
12 Tourism shall be the Secretary of the Department of Parks, Heritage, and
13 Tourism.

14 (b) The secretary shall be appointed by the Governor, subject to
15 confirmation by the Senate, and shall serve at the pleasure of the Governor.

16 (c) Each division of the department shall be under the direction,
17 control, and supervision of the secretary.

18 (d) The secretary may delegate his or her functions, powers, and
19 duties to various divisions or employees of the department as he or she shall
20 deem desirable and necessary for the effective and efficient operation of the
21 department.

22 (e) The secretary may, unless otherwise provided by law:

23 (1) Hire department personnel;

24 (2) Perform or assign duties assigned to the department; and

25 (3) Serve as the director, or the administrative or executive
26 head of any state entity under the administrative control of the department
27 if the secretary meets all statutory requirements for the position.

28

29 25-43-1304. State Parks Division.

30 (a) There is created a State Parks Division within the Department of
31 Parks, Heritage, and Tourism.

32 (b) The Secretary of the Department of Department of Parks, Heritage,
33 and Tourism may delegate any duties and responsibilities to the State Parks
34 Division.

35 (c) The Secretary of the Department of Parks, Heritage, and Tourism
36 may employ a Director of the State Parks Division.

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25-43-1305. Tourism Division.

(a) There is created a Tourism Division within the Department of Parks, Heritage, and Tourism.

(b) The Secretary of the Department of Department of Parks, Heritage, and Tourism may delegate any duties and responsibilities to the Tourism Division.

(c) The Secretary of the Department of Parks, Heritage, and Tourism may employ a Director of the Tourism Division.

25-43-1306. Great River Road Division.

(a) The Mississippi River Parkway Commission of Arkansas, as established pursuant to § 27-69-201 et seq., shall be located in the Great River Road Division created hereby.

(b) The Secretary of the Department of Parks, Heritage, and Tourism, with the advice and consent of the Governor and the Chair of the Mississippi River Parkway Commission of Arkansas, shall appoint the head of the Great River Road Division of the Department of Parks, Heritage, and Tourism.

25-43-1307. Payment of gratuities.

The Department of Parks, Heritage, and Tourism, which from time to time will use the services of hotels and restaurants for conferences, conventions, meetings, advertising promotions, news blitzes, and other group functions, is authorized to pay such reasonable charges of involuntary gratuities for group functions as a part of the cost of services.

25-43-1308. Extra help restriction.

No employee of the State Parks Division who is employed as extra help may receive an amount to exceed eighty-five percent (85%) of the maximum annual salary for a comparable position as authorized under the Uniform Classification and Compensation Act, § 21-5-201 et seq., during any fiscal year, nor shall such an employee be employed for a period of time to exceed one thousand eight hundred (1,800) hours in any single fiscal year.

SECTION 5466. Arkansas Code § 10-3-1106(1), concerning the need for additional legislative space is amended to read as follows:

1 (1) The office space on the north wing of the first floor of the
2 State Capitol Building currently used by the ~~Division of Purchasing Office of~~
3 State Purchasing, the Department of Correction, the Department of Parks,
4 Heritage, and Tourism, and the Department of Commerce;

5
6 SECTION 5467. Arkansas Code § 13-3-101(b) and (c), concerning the
7 creation and purpose of the Arkansas State Archives, are amended to read as
8 follows:

9 (b) The ~~Department of Arkansas Heritage~~ Department of Parks, Heritage,
10 and Tourism and the Building Authority Division of the Department of ~~Finance~~
11 ~~and Administration~~ Transformation and Shared Services shall determine the
12 facility needs of the Arkansas State Archives.

13 (c) The Building Authority Division ~~of the Department of Finance and~~
14 ~~Administration~~ may locate and negotiate an appropriate facility for the
15 Arkansas State Archives, but the ~~Department of Arkansas Heritage~~ Department
16 of Parks, Heritage, and Tourism shall have final approval of the facility's
17 location.

18
19 SECTION 5468. Arkansas Code § 13-3-102(g), concerning the members of
20 the Arkansas History Commission, is amended to read as follows:

21 (g) The commission shall advise and assist the ~~Director of the~~
22 ~~Department of Arkansas Heritage~~ Secretary of the Department of Parks,
23 Heritage, and Tourism in the performance of his or her duties under this
24 subchapter.

25
26 SECTION 5469. Arkansas Code § 13-3-103(a)(1)(A), concerning meetings
27 and records of the Arkansas History Commission, is amended to read as
28 follows:

29 (A) Upon the request of the ~~Director of the Department of~~
30 ~~Arkansas Heritage~~ Secretary of the Department of Parks, Heritage, and
31 Tourism; and

32
33 SECTION 5470. Arkansas Code § 13-3-105 is amended to read as follows:
34 13-3-105. Delegation to State Historian.

35 The Director of the ~~Department~~ Division of Arkansas Heritage may
36 delegate his or her powers and duties concerning the Arkansas State Archives

1 to the State Historian.

2

3 SECTION 5471. Arkansas Code § 13-3-106(a)(1), concerning the powers
4 and duties of the State Historian, is amended to read as follows:

5 (1) Serve at the pleasure of the ~~Director of the Department of~~
6 ~~Arkansas Heritage~~ Secretary of the Department of Parks, Heritage, and
7 Tourism; and

8

9 SECTION 5472. The introductory language of Arkansas Code § 13-3-
10 106(b)(2), concerning the powers and duties of the State Historian, is
11 amended to read as follows:

12 (2) Been determined by the Director of the ~~Department~~ Division
13 of Arkansas Heritage to be qualified to perform the duties of State Historian
14 after considering:

15

16 SECTION 5473. Arkansas Code § 13-3-106(e), concerning the powers and
17 duties of the State Historian, is repealed.

18 ~~(e) The State Historian shall employ such personnel as may be~~
19 ~~authorized by law and fix their compensation within the limits provided by~~
20 ~~law, subject in both respects, however, to approval by the director.~~

21

22 SECTION 5474. Arkansas Code § 13-3-107(a)(2), concerning the
23 preservation of public officials' records, is amended to read as follows:

24 (2) When so surrendered, copies from the state, county, or other
25 official's office shall be made and certified by the Director of the
26 ~~Department~~ Division of Arkansas Heritage upon the application of any person
27 interested, which certification shall have the force and effect as if made by
28 the officer originally in the custody of them, and for which the same fee
29 shall be charged to be collected in advance.

30

31 SECTION 5475. Arkansas Code § 13-3-201(1), concerning the purpose of
32 the Black History Commission of Arkansas, is amended to read as follows:

33 (1) Advising the ~~Director of the Department of Arkansas Heritage~~
34 Secretary of the Department of Parks, Heritage, and Tourism with respect to
35 gathering, developing, and keeping the history of a segment of Arkansas
36 society whose history has been overlooked and forgotten and has been simply

1 neglected because of a lack of concern;

2

3 SECTION 5476. Arkansas Code § 13-3-203(b)(1), concerning meetings,
4 rules, bylaws, and the secretary of the Black History Commission of Arkansas,
5 is amended to read as follows:

6 (b)(1) The Black History Commission of Arkansas shall adopt and
7 may modify rules and bylaws for the conduct of its business, subject to the
8 approval of the ~~Director of the Department of Arkansas Heritage~~ Secretary of
9 the Department of Parks, Heritage, and Tourism.

10

11 SECTION 5477. Arkansas Code § 13-5-206 is amended to read as follows:
12 13-5-206. Program of grants-in-aid and technical assistance.

13 (a) The ~~State Parks Division of the~~ Department of Parks, Heritage, and
14 Tourism shall establish and carry out a program of grants-in-aid to eligible
15 museums or, in appropriate cases, organizations engaged in or concerned with
16 history, science, art, or culture on the basis of fifty percent (50%) state
17 grant funds and fifty percent (50%) of the funds to be provided by the
18 museum, as follows:

19 (1) Only museums and programs concerned with historical,
20 scientific, cultural, or artistically oriented programs offering nonprofit
21 services to the general public may make application for and qualify for funds
22 under this subchapter;

23 (2) None of the funds received by a museum or other organization
24 which qualifies or utilizes funds under this subchapter shall be used as
25 matching funds for other state funds; and

26 (3) All requests for state grant funds under this subchapter
27 shall be prepared on forms promulgated or approved by the ~~division~~ Department
28 of Parks, Heritage, and Tourism and shall be in compliance with the
29 provisions of this subchapter and with reasonable rules to be promulgated by
30 the ~~division~~ Department of Parks, Heritage, and Tourism for the
31 administration of this subchapter.

32 (b) The ~~division~~ Department of Parks, Heritage, and Tourism shall
33 provide technical assistance and information to all museums and museum
34 personnel in Arkansas, within the limitations of available staff and funding.

35

36 SECTION 5478. Arkansas Code § 13-5-207 is repealed.

1 ~~13-5-207. Arkansas Museum Review Panel.~~

2 ~~(a)(1) The Governor shall establish an Arkansas Museum Review Panel to~~
3 ~~consist of five (5) members, one (1) member from each congressional district~~
4 ~~and one (1) member designated at large.~~

5 ~~(2) The members shall serve two year terms.~~

6 ~~(b) The sole purpose and authority of the panel is to analyze, review,~~
7 ~~and approve the qualifications of the applications and to present~~
8 ~~recommendations to the Director of the State Parks Division of the Department~~
9 ~~of Parks and Tourism for the awarding of grants to eligible museums on a~~
10 ~~yearly basis with the final approval of the Director of the Department of~~
11 ~~Parks and Tourism.~~

12 ~~(c) The panel shall serve without pay. However, the division is~~
13 ~~authorized to reimburse the members of the panel for expenses in accordance~~
14 ~~with § 25-16-901 et seq.~~

15
16 SECTION 5479. Arkansas Code § 13-5-307 is amended to read as follows:

17 (a)(1) The ~~Director~~ Secretary of the Department of Parks, Heritage,
18 and Tourism is authorized to use any available funds for the construction,
19 equipment, and operation of a museum and cultural center.

20 (2) The ~~director~~ secretary is authorized to issue revenue bonds,
21 secured by and payable from the revenues specified in this subchapter, and to
22 use the proceeds of the bonds for the acquisition, construction, and
23 equipment of the center.

24 (b) The principal amount of bonds to be issued by the ~~director~~
25 secretary shall be sufficient, together with any available funds, to pay the
26 cost of accomplishing the specified purposes, the costs of authorizing and
27 issuing bonds, the amounts necessary for reserves if deemed desirable by the
28 director, the amounts necessary for interest during and for up to one (1)
29 year after construction, and all other costs of whatever nature incidental to
30 the accomplishment of the center, but in no event shall the aggregate
31 principal amount of bonds exceed twelve million dollars (\$12,000,000).

32 (c)(1) No bonds shall be issued under the provisions of this
33 subchapter unless and until the ~~director~~ secretary, or a department, or
34 educational or other institution, or agency of the State of Arkansas has
35 entered into a signed agreement with the Smithsonian Institution, an agency
36 thereof, or organization affiliated therewith, which agreement shall provide

1 that the Smithsonian Institution, the agency, or organization shall involve
2 itself with the Arkansas Museum and Cultural Center and its operation.

3 (2) The agreement must first be approved in writing by the
4 Governor of the State of Arkansas.

5
6 SECTION 5480. Arkansas Code § 13-5-308(a), concerning authorizing
7 bonds by resolution of the Director of the Department of Parks and Tourism
8 for the Arkansas Museum and Cultural Center, is amended to read as follows:

9 (a) Bonds shall be authorized by resolution of the Director of the
10 Department of Parks and Tourism Secretary of the Department of Parks,
11 Heritage, and Tourism.

12
13 SECTION 5481. The introductory language of Arkansas Code § 13-5-
14 308(b), concerning authorizing bonds by resolution of the Director of the
15 Department of Parks and Tourism for the Arkansas Museum and Cultural Center,
16 is amended to read as follows:

17 (b) The authorizing resolution may contain or may provide for the
18 execution of a trust indenture which may contain any other terms, covenants,
19 and conditions that are deemed desirable by the director or secretary,
20 including, without limitation, those pertaining to:

21
22 SECTION 5482. Arkansas Code § 13-5-309(a), concerning the terms and
23 characteristics of bonds issued by the Director of the Department of Parks
24 and Tourism for the Arkansas Museum and Cultural Center, is amended to read
25 as follows:

26 (a) As the ~~Director~~ Secretary of the Department of Parks, Heritage,
27 and Tourism shall determine, bonds issued pursuant to this subchapter may:

28 (1) Be coupon bonds, payable to bearer, or may be registrable as
29 to principal only or as to principal and interest, and may be made
30 exchangeable for bonds of another denomination;

31 (2) Be in a form and denomination as the ~~director~~ secretary
32 determines;

33 (3) Have such date or dates, may be stated to mature at such
34 times, and bear interest payable at such times and at such rate or rates, as
35 the ~~director~~ secretary determines, provided that no bond may bear interest at
36 a rate exceeding eight percent (8%) per annum;

1 (4) Be made payable at places within or without the State of
2 Arkansas;

3 (5) Be made subject to terms of redemption in advance of
4 maturity at such prices, as determined by the ~~director~~ secretary;

5 (6) Be issued in series from time to time; and

6 (7) Contain such terms and conditions as the ~~director~~ secretary
7 determines.

8

9 SECTION 5483. Arkansas Code § 13-5-310(a), concerning bonds and
10 enforcement of bonds issued by the Director of the Department of Parks and
11 Tourism for the Arkansas Museum and Cultural Center, is amended to read as
12 follows:

13 (a) Any authorizing resolution and trust indenture shall, together
14 with this subchapter, constitute a contract between the ~~Director~~ Secretary of
15 the Department of Parks, Heritage, and Tourism and the holders and registered
16 owners of the bonds.

17

18 SECTION 5484. Arkansas Code § 13-5-311(a), concerning the sale of
19 bonds issued by the Director of the Department of Parks and Tourism, is
20 amended to read as follows:

21 (a) The bonds shall be sold at public sale on sealed bids after such
22 advertisement as the ~~Director~~ Secretary of the Department of Parks, Heritage,
23 and Tourism shall determine to be necessary for the obtaining of favorable
24 competitive bidding.

25

26 SECTION 5485. Arkansas Code § 13-5-312(a), concerning the execution of
27 bonds and coupons issued by the Director of the Department of Parks and
28 Tourism for the Arkansas Museum and Cultural Center, is amended to read as
29 follows:

30 (a) The bonds shall be executed by the manual or facsimile signature
31 of the ~~Director~~ Secretary of the Department of Parks, Heritage, and Tourism.
32 The coupons attached to the bonds shall be executed by the facsimile
33 signature of the ~~director~~ secretary.

34

35 SECTION 5486. Arkansas Code § 13-5-312(c), concerning the execution of
36 bonds and coupons issued by the Director of the Department of Parks and

1 Tourism for the Arkansas Museum and Cultural Center, is amended to read as
2 follows:

3 (c) The ~~director~~ secretary shall adopt and use a seal in the execution
4 and issuance of the bonds. Each bond shall be sealed with the seal of the
5 ~~director~~ secretary.

6
7 SECTION 5487. Arkansas Code § 13-5-313(a)(2), concerning statements on
8 bonds and liability for bonds issued by the Director of the Department of
9 Parks and Tourism, is amended to read as follows:

10 (2) The bonds are obligations only of the ~~Director~~ Secretary of
11 the Department of Parks, Heritage, and Tourism;

12
13 SECTION 5488. Arkansas Code § 13-5-313(a)(4), concerning statements on
14 bonds and liability for bonds issued by the Director of the Department of
15 Parks and Tourism, is amended to read as follows:

16 (4) The bonds are not secured by a mortgage or lien on any land
17 or buildings belonging to the State of Arkansas or the Department of Parks,
18 Heritage, and Tourism.

19
20 SECTION 5489. Arkansas Code § 13-5-314(a) and (b), concerning the
21 disposition of revenues from the operation of the Arkansas Museum and
22 Cultural Center, are amended to read as follows:

23 (a) All revenues derived from the operation of the Arkansas Museum and
24 Cultural Center and all other funds received by the ~~Director~~ Secretary of the
25 Department of Parks, Heritage, and Tourism from other sources for use in
26 connection with the center and its operation are center revenues and are
27 specifically declared to be cash funds, restricted in their use and to be
28 used solely as provided in this subchapter.

29 (b) These revenues shall not be deposited in the State Treasury but
30 shall be deposited by the Department of Parks, Heritage, and Tourism as and
31 when received in a bank or banks as the ~~director~~ secretary may from time to
32 time select.

33
34 SECTION 5490. Arkansas Code § 13-5-315(d), concerning debt service,
35 pledge of revenues and earnings, and charges of the Department of Parks and
36 Tourism for operating the Arkansas Museum and Cultural Center, is amended to

1 read as follows:

2 (d) No earnings from the investment of state funds shall be pledged to
3 secure bonds issued by the ~~Director~~ Secretary of the Department of Parks,
4 Heritage, and Tourism under this subchapter unless the ~~director~~ secretary
5 shall first enter into an agreement with the State Board of Finance to charge
6 appropriate fees for admission to the Arkansas Museum and Cultural Center and
7 to set aside in a special sinking fund, to be used exclusively to pay the
8 principal of, interest on, and paying agent's fees in connection with, bonds
9 issued by the ~~director~~ secretary, at least seventy-five cents (75¢) of the
10 admission fee collected for each adult and fifty cents (50¢) of the admission
11 fee collected for each person of the ages of six to seventeen (6-17),
12 inclusive.

13

14 SECTION 5491. Arkansas Code § 13-5-316(a), concerning administration
15 of debt-servicing provisions and the bond guaranty fund of the Department of
16 Parks and Tourism, is amended to read as follows:

17 (a) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
18 Tourism shall notify the State Board of Finance or the appropriate officer,
19 board, or agency then having jurisdiction over the moneys involved when the
20 ~~director~~ secretary has determined to issue bonds under this subchapter and
21 the amount of investment earnings pledged.

22

23 SECTION 5492. Arkansas Code § 13-5-316(a)-(c), concerning refunding
24 bonds from the Department of Parks and Tourism, are amended to read as
25 follows:

26 (a) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
27 Tourism is authorized to issue bonds to refund any bonds issued under the
28 authority of this subchapter.

29 (b)(1) Thereafter, the ~~director~~ secretary shall constantly keep
30 advised of revenues derived from the Arkansas Musuem and Cultural Center.

31 (2) If it develops that all or any portion of the investment
32 earnings pledged will actually be needed to satisfy the terms of the pledge,
33 the ~~director~~ secretary shall promptly notify the board of the amount that
34 will be actually needed each month to provide for the payment of interest,
35 principal, and paying agents' fees and for the maintenance of reserves as
36 specified by the ~~director~~ secretary in the resolution or trust indenture

1 authorizing and securing the bonds, which monthly amount is designated the
2 "debt service amount".

3 (c) At the receipt of the notice, the board or the appropriate
4 officer, board, or agency then having jurisdiction over the moneys involved
5 shall set aside the debt service amount of the investment earnings and,
6 subject to first complying with any pledge heretofore or any time hereafter
7 made of investment earnings authorized by the Industrial Development Guaranty
8 Bond Act, § 15-4-701 et seq., shall pay the debt service amount directly to
9 the ~~director~~ secretary in a bank or banks selected by the ~~director~~ secretary
10 and designated the "Arkansas Museum and Cultural Center Bond Guaranty Fund",
11 also known as the "Center Guaranty Fund".

12

13 SECTION 5493. Arkansas Code § 13-5-316(d)(2)(A), concerning refunding
14 bonds from the Department of Parks and Tourism, is amended to read as
15 follows:

16 (2)(A) The payments shall continue until the ~~director~~ secretary
17 shall determine that center revenues in the future will be sufficient and
18 shall notify the board to cease paying the debt service amount.

19

20 SECTION 5494. Arkansas Code § 13-5-320 is amended to read as follows:

21 13-5-320. Audit of records and accounts.

22 Arkansas Legislative Audit is authorized and directed to audit the
23 records and accounts of the ~~Director~~ Secretary of the Department of Parks,
24 Heritage, and Tourism and to furnish a copy of the report of that audit to
25 the ~~department~~ Department of Parks, Heritage, and Tourism.

26

27 SECTION 5495. Arkansas Code § 13-5-321 is amended to read as follows:

28 13-5-321. Employment of personnel.

29 (a) The ~~Director of the Department of Parks and Tourism~~ Secretary of
30 the Department of Parks, Heritage, and Tourism is authorized to employ such
31 full-time or temporary professional, technical, and other consulting services
32 as the ~~Director of the Department of Parks and Tourism~~ secretary shall
33 determine necessary or desirable in assisting the Department of Parks,
34 Heritage, and Tourism to carry out effectively the authority, functions,
35 powers, and duties conferred and imposed upon it by this subchapter.

36 (b) However, the salaries of regular employees shall be governed by

1 the provisions of the Uniform Classification and Compensation Act, § 21-5-201
2 et seq., and by the provisions of the Regular Salary Procedures and
3 Restrictions Act, § 21-5-101.

4 (c) The Director of the Arkansas Museum and Cultural Center shall be
5 employed by the ~~Director of the Department of Parks and Tourism~~ secretary.

6
7 SECTION 5496. Arkansas Code § 13-5-401 is amended to read as follows:
8 13-5-401. Museum established.

9 The State Parks Division ~~of the Department of Parks and Tourism~~ is
10 authorized and directed to establish a state historical museum in Union
11 County to be known and operated as the "Arkansas Museum of Natural
12 Resources".

13
14 SECTION 5497. Arkansas Code § 13-5-402(a), concerning the functions
15 and duties of the Arkansas Museum of Natural Resources, is amended to read as
16 follows:

17 (a) The Arkansas Museum of Natural Resources shall be developed and
18 operated by the State Parks Division ~~of the Department of Parks and Tourism~~
19 and shall be devoted primarily to the acquisition, cataloging, and display of
20 machinery, equipment, and materials used in the oil boom in Arkansas.

21
22 SECTION 5498. Arkansas Code § 13-5-403 is amended to read as follows:
23 13-5-403. Museum site.

24 The Arkansas Museum of Natural Resources shall be established at a site
25 to be approved by the State Parks Division ~~of the Department of Parks and~~
26 ~~Tourism~~, with the lands therefor, which shall consist of not fewer than five
27 (5) acres, to be donated without cost to the State of Arkansas.

28
29 SECTION 5499. Arkansas Code § 13-5-503(6), concerning the creation,
30 powers, and duties of the county museum commissions, is amended to read as
31 follows:

32 (6) To enter into agreements with the ~~Department~~ Division of
33 Arkansas Heritage and other public and private agencies or persons, for the
34 purpose of sharing services and facilities, with the view that the historical
35 and cultural resources of this state may be coordinated at the county and
36 state levels for the benefit of the public of this state;

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SECTION 5500. Arkansas Code § 13-5-505, concerning the transfer and assumption of ownership by Prairie County of the Des Arc Archeological Museum, is amended to read as follows:

(a) In the event the Prairie County Quorum Court shall establish a county museum and shall, in the ordinance establishing the county museum, elect to take over the ownership, management, and operation of the Des Arc Archeological Museum, the Department of Parks, Heritage, and Tourism is authorized and directed to convey to the Prairie County Museum all rights, title, and interest of the State of Arkansas in the Des Arc Archeological Museum, to be thereafter operated, maintained, and improved by Prairie County as a part of the Prairie County Museum.

SECTION 5501. Arkansas Code § 13-5-601 is amended to read as follows:

13-5-601. Authorization.

The State Parks Division ~~of the Department of Parks and Tourism~~ is authorized and directed to develop and operate a state historical museum in Arkansas County to be known and operated as the "Arkansas Post Museum".

SECTION 5502. Arkansas Code § 13-5-602 is amended to read as follows:

13-5-602. Functions and duties.

(a) The Arkansas Post Museum shall be developed and operated by the State Parks Division ~~of the Department of Parks and Tourism~~ and shall be devoted primarily to the acquisition, cataloging, and display of objects or materials which tell the story of the territorial settlement and development of Arkansas as a state and its relationship to the settlement of the lower Mississippi Valley.

(b) With the approval of the Director of the State Parks Division ~~of the Department of Parks and Tourism~~, the museum shall solicit, purchase, or accept donations of objects or materials of historical value to be made available to the public as a source of historical information concerning the territorial development and settlement of Arkansas.

SECTION 5503. Arkansas Code § 13-5-702(4) and (5), concerning the definitions of "department" and "director" under the laws establishing the Delta Cultural Center, are repealed.

1 ~~(4) "Department" means the Department of Arkansas Heritage;~~
2 ~~(5) "Director" means the Director of the Department of Arkansas~~
3 ~~Heritage; and~~

4
5 SECTION 5504. Arkansas Code § 13-5-703 is amended to read as follows:
6 13-5-703. Establishment.

7 (a)(1) There is established the Delta Cultural Center which shall be a
8 division of the ~~Department~~ Division of Arkansas Heritage. The center shall be
9 located in ~~Helena~~ Helena-West Helena.

10 (2) ~~The Director of the Department of Arkansas Heritage~~
11 Secretary of the Department of Parks, Heritage, and Tourism, with the advice
12 and consent of the Governor, shall ~~appoint~~ employ the Director of the Delta
13 Cultural Center. All other employees of the center shall be employed by and
14 serve at the pleasure of the ~~Director of the Department of Arkansas Heritage~~
15 Secretary of the Department of Parks, Heritage, and Tourism.

16 (b)(1) The center shall operate a program of temporary and permanent
17 exhibits, a library and resource center, and live performances and shall
18 provide information on related activities in other parts of the Arkansas
19 Delta region.

20 (2) The attraction of visitors to the Arkansas Delta shall be a
21 major goal of the center.

22 (c)(1) All budgeting, purchasing, and related management functions of
23 the center shall be performed under the direction and supervision of the
24 ~~Director of the Department of Arkansas Heritage~~ Secretary of the Department
25 of Parks, Heritage, and Tourism.

26 (2) ~~The Director of the Department of Arkansas Heritage~~
27 Secretary of the Department of Parks, Heritage, and Tourism, after seeking
28 the advice of the Delta Cultural Center Policy Advisory Board, shall
29 promulgate any rules necessary for the implementation of this subchapter.

30
31 SECTION 5505. Arkansas Code § 13-5-704(a), concerning the Delta
32 Cultural Center Policy Advisory Board, is amended to read as follows:

33 (a) There is created the Delta Cultural Center Policy Advisory Board,
34 which shall advise the Secretary of the Department of Parks, Heritage, and
35 Tourism, Director of the ~~Department~~ Division of Arkansas Heritage, and staff
36 of the Delta Cultural Center on:

- 1 (1) The development of permanent and temporary exhibits;
2 (2) A plan for the acquisition of resource materials; and
3 (3) The development of educational and other programming.
4

5 SECTION 5506. Arkansas Code § 13-5-706(d)(1), concerning the powers of
6 the Delta Cultural Center, is amended to read as follows:

7 (d)(1) The center may request the assistance of the Secretary of the
8 Department of Parks, Heritage, and Tourism ~~Department of Parks and Tourism~~
9 and any other appropriate state agency in establishing and operating the
10 center and its programs.
11

12 SECTION 5507. Arkansas Code § 13-5-801 is amended to read as follows:

13 13-5-801. Arkansas Cotton Museum established.

14 The Department of Parks, Heritage, and Tourism is authorized to
15 coordinate the establishment of ~~an~~ a historical museum in Lee County, to be
16 known and operated as the "Arkansas Cotton Museum". The museum shall be
17 established in association with the University of Arkansas ~~Agricultural~~
18 ~~Experiment Station in Lee County~~ Cooperative Extension Service.
19

20 SECTION 5508. Arkansas Code § 13-5-901(4) and (5), concerning the
21 definition of "department" and "director" under the laws establishing the
22 Mosaic Templars of America Center for African-American Culture and Business
23 Enterprise, are repealed.

24 ~~(4) "Department" means the Department of Arkansas Heritage; and~~

25 ~~(5) "Director" means the Director of the Department of Arkansas~~

26 ~~Heritage.~~
27

28 SECTION 5509. Arkansas Code § 13-5-902 is amended to read as follows:

29 13-5-902. Establishment - Administration.

30 (a)(1) There is established the Mosaic Templars of America Center for
31 African-American Culture and Business Enterprise which shall be a division of
32 the ~~Department~~ Division of Arkansas Heritage.

33 (2)(A) The ~~Director of the Department of Arkansas Heritage~~
34 Secretary of the Department of Parks, Heritage, and Tourism, with the advice
35 and consent of the Governor, shall appoint the Director of the Mosaic
36 Templars of America Center for African-American Culture and Business

1 Enterprise.

2 (B) All other employees of the center shall be employed by
3 and serve at the pleasure of the ~~Director of the Department of Arkansas~~
4 Heritage Secretary of the Department of Parks, Heritage, and Tourism in
5 compliance with state law.

6 (b) The center shall operate a program of temporary and permanent
7 exhibits, a library and resource center, and live performances. The
8 attraction of visitors shall be a major goal of the center.

9 (c)(1) All budgeting, purchasing, and related management functions of
10 the center shall be performed under the direction and supervision of the
11 Secretary of the Department of Parks, Heritage, and Tourism, in consultation
12 with the Director of the Mosaic Templars of America Center for African-
13 American Culture and Business Enterprise in compliance with state law.

14 (2) The ~~Director of the Mosaic Templars of America Center for~~
15 ~~African-American Culture and Business Enterprise~~ Secretary of the Department
16 of Parks, Heritage, and Tourism, after seeking the advice of the Mosaic
17 Templars of America Center for African-American Culture and Business
18 Enterprise Advisory Board, shall promulgate any rules necessary for the
19 implementation of this subchapter.

20

21 SECTION 5510. Arkansas Code § 13-5-903(a), concerning the creation of
22 the Mosaic Templars of America Center for African-American Culture and
23 Business Enterprise Advisory Board, is amended to read as follows:

24 (a) There is created the Mosaic Templars of America Center for
25 African-American Culture and Business Enterprise Advisory Board which shall
26 advise the Director of the Arkansas Heritage Division, Director of the Mosaic
27 Templars of America Center for African-American Culture and Business
28 Enterprise, and staff of the Mosaic Templars of America Center for African-
29 American Culture and Business Enterprise on the development of permanent and
30 temporary exhibits, a plan for acquisition of resource materials, and
31 development of educational and other programming.

32

33 SECTION 5511. Arkansas Code § 13-5-904(a), concerning the powers of
34 the Mosaic Templars of America Center for African-American Culture and
35 Business Enterprise, is amended to read as follows:

36 (a) The Mosaic Templars of America Center for African-American Culture

1 and Business Enterprise shall have the power to enter into, with the consent
2 of the Secretary of the Department of Parks, Heritage, and Tourism:

3 (1) Contracts for the purchase, construction, lease, or other
4 acquisition of real property to house the center and to acquire or construct
5 necessary support facilities;

6 (2) Contracts to purchase or lease personal property for use as
7 exhibits or for use as research material; and

8 (3) Professional service contracts with appropriate
9 professionals to assist in the establishment of the center and the
10 development and operation of the center's programs and activities.

11
12 SECTION 5512. Arkansas Code § 13-5-1013 is amended to read as follows:
13 13-5-1013. Rules.

14 ~~The Department of Parks and Tourism, in consultation with the~~
15 ~~Department of Arkansas Heritage~~ Department of Parks, Heritage, and Tourism
16 shall promulgate rules to carry out the provisions of this subchapter,
17 including, but not limited to, rules concerning the form and substance of
18 loan agreements.

19
20 SECTION 5513. Arkansas Code § 13-7-103 is amended to read as follows:
21 13-7-103. Construction.

22 Nothing in this subchapter shall be construed to repeal or diminish any
23 of the powers, functions, or responsibilities of the ~~Department of Arkansas~~
24 ~~Heritage~~ Department of Parks, Heritage, and Tourism, the State Parks,
25 Recreation, and Travel Commission, the Old State House Commission, and the
26 Arkansas Archeological Survey, as prescribed by law.

27
28 SECTION 5514. Arkansas Code § 13-7-104 is amended to read as follows:
29 13-7-104. Administration of program.

30 ~~The Department of Arkansas Heritage~~ Department of Parks, Heritage, and
31 Tourism, Division of Arkansas Heritage is designated as the agency of this
32 state to develop and implement a statewide program of historic preservation.

33
34 SECTION 5515. Arkansas Code § 13-7-105(b), concerning the ability of
35 the Arkansas Archeological Survey to perform archeological functions, is
36 amended to read as follows:

1 (b) In furtherance of the development and implementation of a
2 statewide program of historic preservation, the survey and the Arkansas
3 Historic Preservation Program of the ~~Department~~ Division of Arkansas Heritage
4 shall cooperate in the fullest manner possible.

5
6 SECTION 5516. Arkansas Code § 13-7-106(a), concerning the powers and
7 duties of the Arkansas Historic Preservation Program, is amended to read as
8 follows:

9 (a) The Arkansas Historic Preservation Program, a division of the
10 ~~Department~~ Division of Arkansas Heritage, under the State Historic
11 Preservation Officer, shall have the following powers and duties:

12 (1) To implement the development of a State Historic
13 Preservation Plan as contemplated by 54 U.S.C. § 302301 et seq., but not
14 necessarily restricted thereto, and to be responsible for the historical,
15 architectural, and cultural portions of that plan;

16 (2) To conduct surveys and otherwise develop the data necessary
17 for the historical, architectural, and cultural portions of the State
18 Historic Preservation Plan;

19 (3) To cooperate with the Arkansas Archeological Survey which
20 will be responsible for the archeological portion of the statewide program
21 for historic preservation and the State Historic Preservation Plan as
22 provided for in § 13-7-105;

23 (4) To coordinate the surveys and other programs of activities
24 of all state and private agencies in connection with projects supported by
25 federal funds provided to the ~~department~~ Division of Arkansas Heritage to
26 implement 54 U.S.C. § 302301 et seq. and all cash funds or appropriated state
27 funds made available to the ~~department~~ division for the program;

28 (5) To allocate any federal funds which are provided to
29 implement 54 U.S.C. § 302301 et seq. to those state agencies or private or
30 other organizations which are professionally staffed and capable of carrying
31 out the programs provided for by 54 U.S.C. § 302301 et seq.;

32 ~~To employ such necessary personnel, consultants, planners,~~
33 ~~or other employees or professional services within the limits of funds~~
34 ~~available therefor as may be required in the performance of services~~
35 ~~contemplated by this subchapter, and to contract with any and all public~~
36 ~~firms or agencies for the purpose of making state surveys and plans necessary~~

1 ~~for the implementation of this subchapter;~~

2 ~~(7)~~ To accept and administer funds received from the state or
3 federal government or any other governmental agencies or from any private
4 source in furtherance of the provisions of this subchapter; provided, that
5 administration and acceptance does not include cash or appropriated funds
6 made available to the Arkansas Archeological Survey from whatever source;

7 ~~(8)~~(7) To reimburse members of committees appointed by the
8 Governor for expenses in accordance with § 25-16-901 et seq.;

9 ~~(9)~~(8) To enlist the cooperation and assistance of the Old State
10 House Commission, the Arkansas State Archives, the State Parks, Recreation,
11 and Travel Commission, and all other agencies for historical, architectural,
12 and cultural purposes, to the end that all activities shall be developed in
13 accordance with the plan as contemplated by this subchapter and 54 U.S.C. §
14 302301 et seq., and in accordance with existing state laws pertaining to the
15 duties and responsibilities of each of the agencies indicated in this
16 subdivision ~~(a)(9)~~(a)(8);

17 ~~(10)~~(9) To cooperate with federal, state, and local government
18 agencies in surveying the state for historic properties to be included in the
19 State Register of Historic Places or National Register of Historic Places, or
20 both, in the planning and conduct of specific undertakings affecting historic
21 properties and preservation objectives, and, generally, in overall planning
22 for the use of land; and

23 ~~(11)~~(10) To perform all other functions necessary in the
24 furtherance of the purpose of this subchapter and in coordinating and
25 implementing the participation by this state in the purposes contemplated by
26 54 U.S.C. § 302301 et seq.

27
28 SECTION 5517. Arkansas Code § 13-7-107(a), concerning the appointment
29 and duties of the State Historic Preservation Officer, is amended to read as
30 follows:

31 (a) The Governor shall designate the State Historic Preservation
32 Officer who shall be an employee of the ~~Department~~ Division of Arkansas
33 Heritage.

34
35 SECTION 5518. Arkansas Code § 13-7-111(b)(1), concerning signage for
36 war relocation centers, is amended to read as follows:

1 (b)(1) The ~~Department~~ Division of Arkansas Heritage shall erect signs
2 to inform visitors about the historic landmarks of Jerome and Rohwer in
3 Southeast Arkansas, subject to the appropriation and availability of funding.
4

5 SECTION 5519. Arkansas Code § 13-7-111(c)(5), concerning signage for
6 war relocation centers, is amended to read as follows:

7 (5) Other information as determined by the ~~Department~~ Division
8 of Arkansas Heritage that would be of value to visitors of Jerome and Rohwer.
9

10 SECTION 5520. Arkansas Code § 13-7-203(b), concerning the officers,
11 rules, meetings, and reports of the Old State House Commission, is amended to
12 read as follows:

13 (b) The commission shall select from its membership from time to time
14 a vice chair and a secretary. ~~The commission shall be authorized to employ~~
15 ~~the secretary either as curator or as receptionist.~~
16

17 SECTION 5521. Arkansas Code § 13-7-203(f), concerning the officers,
18 rules, meetings, and reports of the Old State House Commission, is amended to
19 read as follows:

20 (f) By the first Monday in September of each year, it shall be the
21 duty of the commission to cause to be prepared and presented to the ~~Governor~~
22 Secretary of the Department of Parks, Heritage, and Tourism a report showing
23 the operation of the commission during the previous fiscal year and
24 containing recommendations.
25

26 SECTION 5522. Arkansas Code § 13-7-205, concerning the powers and
27 duties of the Old State House Commission, is amended to add an additional
28 subdivision to read as follows:

29 (10) Receive administrative support and be provided all
30 employees necessary to carry out the duties of the Old State House Commission
31 from the Department of Parks, Heritage, and Tourism.
32

33 SECTION 5523. Arkansas Code § 13-7-302(b), concerning the creation,
34 duties, and powers of the Historic Arkansas Museum Commission, is amended to
35 read as follows:

36 (b) The commissioners shall have power to ~~employ~~ request the

1 Department of Parks, Heritage, and Tourism to employ all architects and other
2 employees necessary in carrying out restoration and in maintaining a historic
3 center after restoration is accomplished.

4
5 SECTION 5524. Arkansas Code Title 13, Chapter 7, Subchapter 4, is
6 repealed.

7 ~~13-7-401. Creation—Members.~~

8 ~~(a) There is created a Prairie Grove Battlefield State Park Advisory~~
9 ~~Commission.~~

10 ~~(b)(1) The commission shall be composed of seven (7) qualified~~
11 ~~electors of the State of Arkansas to be appointed by the Governor and shall~~
12 ~~serve in an advisory capacity to the State Parks Division of the Department~~
13 ~~of Parks and Tourism.~~

14 ~~(2) Four (4) members of the commission shall be residents of~~
15 ~~Washington County, Arkansas.~~

16 ~~(3) One (1) member of the commission shall be an historian by~~
17 ~~profession.~~

18 ~~(c) The members of the commission shall be appointed for five-year~~
19 ~~staggered terms of office.~~

20 ~~(d) Vacancies on the commission caused by death, resignation, or any~~
21 ~~other reason shall be filled by appointment by the Governor for the unexpired~~
22 ~~portion of the term.~~

23 ~~(e)(1) The commission shall advise the division in the establishment~~
24 ~~of policies and procedures for the development and operation of the Prairie~~
25 ~~Grove Battlefield State Park.~~

26 ~~(2) However, final authority for all matters relating to the~~
27 ~~development and operation of the park shall rest with the Director of the~~
28 ~~Department of Parks and Tourism.~~

29 ~~(f) Under the supervision of the Superintendent of the Prairie Grove~~
30 ~~Battlefield State Park and with the approval of the director, the commission~~
31 ~~shall develop and coordinate efforts to encourage gifts or donations to the~~
32 ~~park.~~

33
34 ~~13-7-402. Officers—Oaths and compensation of members.~~

35 ~~(a) Before any member of the Prairie Grove Battlefield State Park~~
36 ~~Advisory Commission shall enter upon his or her duties as a member of the~~

1 ~~commission, the member shall take the oath required of elected state~~
2 ~~officials and shall file a copy of the oath in the office of the Secretary of~~
3 ~~State.~~

4 ~~(b)(1) Upon its appointment, the commission shall meet and organize by~~
5 ~~electing one (1) member as chair and one (1) member as secretary and shall~~
6 ~~elect any other officers as the commission deems necessary.~~

7 ~~(2) The officers shall be elected annually.~~

8 ~~(c)(1) Members of the commission shall serve without compensation.~~

9 ~~(2) However, the members may receive expense reimbursement in~~
10 ~~accordance with § 25-16-901 et seq.~~

11
12 SECTION 5525. Arkansas Code § 13-7-504(e), concerning the creation of
13 fund and administration of the Historic Preservation Revolving Loan Fund, is
14 amended to read as follows:

15 (e) In the event the program ceases to make loans from the Historic
16 Preservation Revolving Loan Fund, any moneys remaining in the Historic
17 Preservation Revolving Loan Fund may be transferred to the Natural and
18 Cultural Resources Historic Preservation Fund, as certified to the Chief
19 Fiscal Officer of the State by the ~~Department~~ Division of Arkansas Heritage.

20
21 SECTION 5526. Arkansas Code § 13-8-103 is amended to read as follows:

22 13-8-103. Establishment and composition.

23 (a) There is established the Arkansas Arts Council ~~as a separate and~~
24 ~~distinct agency~~ under the laws of the State of Arkansas and under the
25 jurisdiction and supervision of the ~~Department of Arkansas Heritage~~ Division
26 of Arkansas Heritage of the Department of Parks, Heritage, and Tourism.

27 (b)(1) The Arkansas Arts Council shall consist of an advisory council
28 and ~~an executive~~ a director.

29 (2) The Advisory Council of the Arkansas Arts Council shall
30 develop and implement a comprehensive statewide program for the support of
31 the arts in Arkansas pursuant to this subchapter.

32 (3) The ~~Executive~~ Director of the Arkansas Arts Council shall
33 administer the provisions of this subchapter and the rules and orders
34 established under this subchapter.

35
36 SECTION 5527. Arkansas Code § 13-8-105 is amended to read as follows:

1 13-8-105. ~~Executive director~~ Director.

2 (a) The ~~Executive~~ Director of the Arkansas Arts Council shall:

3 (1) be Be the ex officio secretary of the Advisory Council of
4 the Arkansas Arts Council but shall have no vote on matters coming before the
5 advisory council;

6 (2) Shall be an employee of the Department of Parks, Heritage,
7 and Tourism; and

8 (3) Shall be employed by the Secretary of the Department of
9 Parks, Heritage, and Tourism in consultation with the Arkansas Arts Council.

10 (b) The ~~executive~~ director's salary and expenses of his or her office
11 shall be fixed by the General Assembly within amounts available therefor by
12 appropriation.

13 (c) The advisory council by resolution duly adopted may delegate to
14 the ~~executive~~ director any of the powers and duties vested in or imposed upon
15 it by this subchapter, and the delegated powers and duties may be exercised
16 by the ~~executive~~ director in the name of the Arkansas Arts Council.

17
18 SECTION 5528. Arkansas Code § 13-8-106(a)(1)(A), concerning the powers
19 and duties of the Arkansas Arts Council, is amended to read as follows:

20 (A) To advise the ~~Governor~~ Secretary of the Department of
21 Parks, Heritage, and Tourism and General Assembly on matters relating to the
22 arts;

23
24 SECTION 5529. Arkansas Code § 13-8-106(c)(2) and (3), concerning the
25 powers and duties of the Arkansas Arts Council, are amended to read as
26 follows:

27 (2) The ~~Executive~~ Director of the Arkansas Arts Council shall be
28 the Governor's liaison officer to implement the National Foundation on the
29 Arts and Humanities Act of 1965, 20 U.S.C. § 951 et seq.

30 (3) All programs of grants-in-aid as described in this section
31 shall be administered by the ~~executive~~ director.

32
33 SECTION 5530. Arkansas Code § 13-8-106(f), concerning the powers and
34 duties of the Arkansas Arts Council, are amended to read as follows:

35 (f) The Arkansas Arts Council shall submit an annual report to the
36 ~~Governor~~ Secretary of the Department of Parks, Heritage, and Tourism as of

1 June 30 of each year, summarizing the Arkansas Arts Council's activities,
2 expenditures, and grants of money or property from all sources for the
3 preceding year. This report shall include recommendations directed toward
4 furthering the purposes of this subchapter as the Arkansas Arts Council deems
5 appropriate.

6
7 SECTION 5531. Arkansas Code § 13-13-101(a), concerning the creation of
8 the Arkansas Civil War Sesquicentennial Commission, is amended to read as
9 follows:

10 (a) The Arkansas Civil War Sesquicentennial Commission is created to
11 assist the ~~Department~~ Division of Arkansas Heritage in carrying out its
12 duties and responsibilities as provided in this chapter.

13
14 SECTION 5532. Arkansas Code § 13-13-102(c)(4)(A) and (B), concerning
15 the members of the Arkansas Civil War Sesquicentennial Commission, are
16 amended to read as follows:

17 (A) Director of the ~~Department~~ Division of Arkansas
18 Heritage;

19 (B) ~~Director~~ Secretary of the Department of ~~Arkansas~~
20 Parks, Heritage, and Tourism;

21
22 SECTION 5533. Arkansas Code § 13-14-103(d), concerning Arkansas
23 heritage trails, is amended to read as follows:

24 (d) The Department of Parks, Heritage, and Tourism shall:

25 (1) Administer the provisions of this chapter; and
26 (2) Establish a uniform marker for the Arkansas heritage trails
27 system.

28
29 SECTION 5534. Arkansas Code § 13-14-104(b)(3), concerning designation
30 of the Arkansas heritage trails, is amended to read as follows:

31 (3) American Indian removal routes designated by the Department
32 of Parks, Heritage, and Tourism, including without limitation land and water
33 routes for Cherokee, Choctaw, Muscogee (Creek), Chickasaw, and Seminole
34 tribes; and

35
36 SECTION 5535. Arkansas Code § 13-14-105(a), concerning studies of

1 prospective Arkansas heritage trails, is amended to read as follows:

2 (a) The Department of Parks, Heritage, and Tourism, in consultation
3 with the Arkansas State Archives, the Arkansas Historic Preservation Program,
4 and the Arkansas Department of Transportation, shall conduct studies to
5 determine the feasibility of designating additional trails as heritage
6 trails.

7

8 SECTION 5536. Arkansas Code § 13-14-105(c), concerning studies of
9 prospective Arkansas heritage trails, is amended to read as follows:

10 (c) The following routes shall be studied by the Department of Parks,
11 Heritage, and Tourism to determine the feasibility and desirability of
12 designating other trails as heritage trails:

- 13 (1) The Line Road from Van Buren to Evansville;
14 (2) The Memphis to Little Rock Road;
15 (3) The Rock Roe Landing connection to the Memphis to Little
16 Rock Road from where Rock Roe enters the White River to the Memphis to Little
17 Rock Road;
18 (4) The Cadron to Arkansas Post Road;
19 (5) The Little Rock to Fort Smith Road section to Potts old
20 place north of Potts Tavern;
21 (6) The Little Rock to Fort Smith and Fort Gibson section from
22 Potts to Fort Smith crossing the Arkansas River at Dardanelle;
23 (7) The Upper Cut Road;
24 (8) The Little Rock to Washington Road;
25 (9) The Old Fort Towson Road from Washington to American Indian
26 Territory;
27 (10) The Antoine to Fort Towson Road;
28 (11) The Ecore Fabre to Washington Route; and
29 (12) The Ecore Fabre to Point Chicot Road.

30

31 SECTION 5537. Arkansas Code § 14-172-207(1)(A)(i), concerning the
32 establishment of historic districts, is amended to read as follows:

33 (1)(A)(i) An historic district commission, established as
34 provided in § 14-172-206, shall make an investigation and report on the
35 historic significance of the buildings, structures, features, sites, or
36 surroundings included in any such proposed historic district and shall

1 transmit copies of its report to the Arkansas Historic Preservation Program,
2 a division of the ~~Department~~ Division of Arkansas Heritage, to the planning
3 commission of the municipality or county, if any, and in the absence of such
4 commission, to the governing body of the municipality or county for its
5 consideration and recommendation.

6
7 SECTION 5538. Arkansas Code § 14-270-202 is amended to read as
8 follows:

9 14-270-202. Elements of the grants program.

10 There is hereby established the FUN Parks Grants Program to be
11 administered by the ~~Arkansas Department of Parks and Tourism~~ Department of
12 Parks, Heritage, and Tourism. The purpose of the FUN Parks Grants Program is
13 to provide basic outdoor recreation facilities including baseball and
14 softball fields, basketball courts, picnic tables and pavilions, and
15 playground equipment to residents of small Arkansas communities. The goal of
16 this program is to build two hundred (200) new outdoor parks statewide in
17 communities of two thousand five hundred (2,500) or less as established by
18 the 1990 census. Up to fifty (50) new FUN parks may be constructed each year
19 in each of the next four (4) years at a cost not to exceed ten thousand
20 dollars (\$10,000) for each FUN park.

21
22 SECTION 5539. Arkansas Code § 14-270-203 is amended to read as
23 follows:

24 14-270-203. Authorization.

25 The ~~Arkansas~~ Department of Parks, Heritage, and Tourism is herein
26 authorized to promulgate procedures, rules, guidelines, or regulations
27 necessary for the administration of the FUN Park Grants Program.

28
29 SECTION 5540. Arkansas Code § 15-11-101 is amended to read as follows:

30 15-11-101. Publicity generally.

31 It shall be the duty of the ~~Director~~ Secretary of the Department of
32 Parks, Heritage, and Tourism to:

33 (1) ~~Devote his or her entire time to the carrying out of the~~
34 ~~provisions of this section;~~

35 (2) Make available and make use of the materials and information
36 assembled by state agencies and gather additional information and materials

1 concerning the state's resources, its department and divisions of government,
2 and its institutions;

3 ~~(3)~~(2) Make this information available to the newspapers,
4 magazines, and other media of publicity for the preparation of articles and
5 stories favorable to the state, its resources, its institutions, and its
6 department and divisions of government;

7 ~~(4)~~(3) Prepare paid advertisements favorable to the State of
8 Arkansas and, subject to the approval of the State Parks, Recreation, and
9 Travel Commission, expend such state funds as may be made available for this
10 purpose in the publication of advertisements in magazines, newspapers, and
11 ~~other periodicals~~ traditional and digital media, either directly with
12 advertising media or through the services of a recognized advertising agency
13 on a commission basis regularly allowed by the advertising media;

14 ~~(5)~~(4) Assemble and prepare material for the publication of
15 pamphlets, booklets, folders, maps, brochures, and other similar advertising
16 matter concerning the State of Arkansas and contract, subject to the approval
17 of the commission, for the reproduction of advertising matter;

18 ~~(6)~~(5) Distribute advertising matter to the general public or to
19 special groups for which it is intended, either by mail or other method; and

20 ~~(7)~~(6) Assist and aid the various ~~department~~ departments and
21 divisions of state in the preparation and distribution of pamphlets,
22 booklets, folders, etc., when it may be deemed advisable to give publicity to
23 the activities of any department or division or to inform the public of the
24 activities, rules, regulations, or requirements of the state government.

25

26 SECTION 5541. Arkansas Code § 15-11-102 is amended to read as follows:

27 15-11-102. Promulgation of rules and procedures.

28 (a) The Department of Parks, Heritage, and Tourism is specifically
29 authorized to promulgate its own rules and procedures applying to the
30 purchase of printed material and specialty items for advertising purposes.
31 The Department of Parks, Heritage, and Tourism will take no less than a
32 minimum of three (3) bids in purchasing printing and specialty items. The
33 records pertaining to the bidding procedures, bids, and contract awards will
34 be made a part of the permanent record file of the Department of Parks,
35 Heritage, and Tourism, and copies will be forwarded to the purchasing
36 department of the Department of Finance and Administration.

1 (b) The Department of Parks, Heritage, and Tourism is specifically
2 authorized to promulgate its own rules and procedures applying to the
3 professional services of an advertising agency. The Department of Parks,
4 Heritage, and Tourism will take proposals and contract with an advertising
5 agency with the advice of the Legislative Council.

6
7 SECTION 5542. Arkansas Code § 15-11-204(b), concerning the
8 organization and meetings of the State Parks, Recreation, and Travel
9 Commission, is amended to read as follows:

10 (b) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
11 Tourism ~~provided for in § 15-11-205~~ shall be ex officio Secretary of the
12 State Parks, Recreation, and Travel Commission but shall have no vote on
13 matters coming before the commission.

14
15 SECTION 5543. Arkansas Code § 15-11-205 is amended to read as follows:

16 15-11-205. ~~Director~~ Secretary of the Department of Parks, Heritage,
17 and Tourism.

18 (a) ~~The State Parks, Recreation, and Travel Commission, with the~~
19 ~~approval of the Governor, shall employ a Director~~ Secretary of the Department
20 of Parks, Heritage, and Tourism ~~who~~ shall be charged with the duty of
21 administering the provisions of this subchapter and the rules, regulations,
22 and orders established thereunder.

23 (b) The ~~commission~~ State Parks, Recreation, and Travel Commission, by
24 resolution duly adopted, may delegate to the ~~Director~~ Secretary of the
25 Department of Parks, Heritage, and Tourism any of the powers or duties vested
26 in or imposed upon it by this subchapter, and the delegated powers and duties
27 may be exercised by the ~~Director~~ Secretary of the Department of Parks,
28 Heritage, and Tourism in the name of the commission.

29 (c) ~~The Director of the Department of Parks and Tourism shall:~~

30 ~~(1) Be selected with special reference to his or her executive~~
31 ~~ability, experience, and interest in the resources and development of the~~
32 ~~state;~~

33 ~~(2) Be a person with at least five (5) years' experience in the~~
34 ~~newspaper or radio profession in an editorial or advertising capacity;~~

35 ~~(3) Be custodian of all property held in the name of the~~
36 ~~commission;~~

1 ~~(4) Be ex officio the disbursing agent of all funds available~~
2 ~~for its use; and~~

3 ~~(5)(A) Furnish a bond to the state with a corporate surety~~
4 ~~thereon in the penal sum of ten thousand dollars (\$10,000), conditioned that~~
5 ~~he or she will faithfully perform his or her duties of employment and~~
6 ~~properly account for all funds received and disbursed by him or her.~~

7 ~~(B) An additional disbursing agent's bond shall not be~~
8 ~~required of the Director of the Department of Parks and Tourism.~~

9 ~~(C) The bond so furnished shall be filed with the~~
10 ~~Secretary of State, and an executed counterpart of the bond shall be filed~~
11 ~~with the Auditor of State.~~

12 ~~(d)(1) The Director~~ Secretary of the Department of Parks, Heritage,
13 and Tourism, ~~subject to approval of the commission,~~ shall employ, upon the
14 recommendation of the commission, a Director of the State Parks Division and
15 a Director of ~~Recreation and Travel~~ the Tourism Division and such assistants
16 and other personnel as necessary to properly administer the provisions of
17 this subchapter, with the duties of both the Director of State Parks and the
18 Director of ~~Recreation and Travel~~ the Tourism Division and such assistants as
19 appointed to be independent of the other, but the Director of State Parks and
20 the Director of ~~Recreation and Travel~~ the Tourism Division shall cooperate as
21 necessary for the proper performance of the commission and the department.

22 (2) The Director of ~~Recreation and Travel~~ the Tourism Division,
23 as appointed by the ~~Director~~ Secretary of the Department of Parks, Heritage,
24 and Tourism, shall be a person with a background in the travel service
25 industry or editorial experience in news media with a minimum of three (3)
26 years' experience in news media or travel service, with special consideration
27 being given to a background in advertising.

28
29 SECTION 5544. Arkansas Code § 15-11-207(a) and (b), concerning the
30 Director of the Department of Parks and Tourism's cooperation with news media
31 representatives, are amended to read as follows:

32 (a) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
33 Tourism and his or her staff shall cooperate with representatives of
34 newspapers, magazines, and radio and television stations but shall not
35 otherwise be identified with any of these enterprises.

36 (b)(1) All information or publicity originated or developed by the

1 ~~director~~ secretary and his or her staff shall be released to all news media
2 at times agreeable to a majority of the representatives thereof who are
3 assigned to the State Capitol Building.

4 (2) However, upon the request of any such representative or
5 other individual for specific information not theretofore originated and
6 developed for a news release by the ~~director~~ secretary or his or her staff,
7 the ~~director~~ secretary shall furnish the news release to the individual
8 making the request without regard to the provision of subdivision (b)(1) of
9 this section.

10
11 SECTION 5545. Arkansas Code § 15-11-210 is amended to read as follows:
12 15-11-210. Award of pistol upon retirement.

13 When a commissioned law enforcement officer of the State Parks Division
14 ~~of the Department of Parks and Tourism~~ retires from service in good standing
15 after twenty (20) years of service, in recognition of and appreciation for
16 the service of the retiring officer, the Director of the State Parks Division
17 may award to the officer the pistol carried by the officer at the time of his
18 or her retirement from service.

19
20 SECTION 5546. Arkansas Code § 15-11-211(a), concerning the disposal of
21 railroad track material by the State Parks, Recreation, and Travel Commission
22 and the Department of Parks and Tourism, is amended to read as follows:

23 (a) The State Parks, Recreation, and Travel Commission and the
24 Department of Parks, Heritage, and Tourism are authorized to dispose of rail
25 and other railroad track material by gift or contract to a regional
26 intermodal facilities authority organized pursuant to the Regional Intermodal
27 Facilities Act, § 14-143-101 et seq., a metropolitan port authority organized
28 pursuant to the Metropolitan Port Authority Act of 1961, § 14-185-101 et
29 seq., or a planning and development district recognized by § 14-166-202.

30
31 SECTION 5547. Arkansas Code § 15-11-211(a), concerning the disposal of
32 railroad track material by the State Parks, Recreation, and Travel Commission
33 and the Department of Parks and Tourism, is amended to read as follows:

34 (a) The State Parks, Recreation, and Travel Commission and the
35 Department of Parks, Heritage, and Tourism are authorized to dispose of rail
36 and other railroad track material by gift or contract to a regional

1 intermodal facilities authority organized pursuant to the Regional Intermodal
2 Facilities Act, § 14-143-101 et seq., a metropolitan port authority organized
3 pursuant to the Metropolitan Port Authority Act of 1961, § 14-185-101 et
4 seq., or a planning and development district recognized by § 14-166-202.

5
6 SECTION 5548. Arkansas Code § 15-11-212 is amended to read as follows:
7 15-11-212. Enforcement of state law – Statewide jurisdiction.

8 A person designated as and employed as a law enforcement officer by the
9 Department of Parks, Heritage, and Tourism shall:

10 (1) Be a certified law enforcement officer under § 12-9-101 et
11 seq.; and

12 (2) Have statewide law enforcement jurisdiction and authority.

13
14 SECTION 5549. Arkansas Code § 15-11-301 is amended to read as follows:
15 15-11-301. Creation.

16 The Department of Parks, Heritage, and Tourism is authorized and
17 directed to establish, as funds are provided therefor, and to maintain and
18 operate at or near the federal interstate highway points of entry into this
19 state tourist information bureaus to perform the functions and duties as
20 provided by this subchapter.

21
22 SECTION 5550. Arkansas Code § 15-11-302(1), concerning the duties of
23 the Department of Parks and Tourism, is amended to read as follows:

24 (1) Be open to the public at regular business hours and, during
25 tourist seasons, shall be operated at such other hours as may be determined
26 by the Department of Parks, Heritage, and Tourism;

27
28 SECTION 5551. Arkansas Code § 15-11-305 is amended to read as follows:
29 15-11-305. Cooperation with other state agencies.

30 The State Highway Commission, the Arkansas State Game and Fish
31 Commission, and all other state agencies are requested to cooperate and
32 assist the Department of Parks, Heritage, and Tourism with respect to tourist
33 information bureaus established under the provisions of this subchapter.

34
35 SECTION 5552. Arkansas Code § 15-11-306(a), concerning the authority
36 to lease facilities, is amended to read as follows:

1 (a) The Department of Parks, Heritage, and Tourism may lease existing
2 buildings and facilities for operation as tourist information bureaus at or
3 near the major highway points of entry into this state and may pay the
4 necessary cost of maintenance, upkeep, and operation of the leased buildings
5 and facilities.

6
7 SECTION 5553. Arkansas Code § 15-11-401(1), concerning the definition
8 of "commission" under the laws establishing regional tourist promotion
9 agencies, is amended to read as follows:

10 (1) "Commission" means the State Parks, Recreation, and Travel
11 Commission or the Department of Parks, Heritage, and Tourism or any successor
12 agency designated by law to promote tourist travel and vacation business in
13 Arkansas;

14
15 SECTION 5554. Arkansas Code § 15-11-401(4), concerning the definition
16 of "tourism division" under the laws establishing regional tourist promotion
17 agencies, is amended to read as follows:

18 (4) "Tourism division" means the Tourism Division of the
19 Department of Parks, Heritage, and Tourism or its successor agency.

20
21 SECTION 5555. Arkansas Code § 15-11-402(a)(1), concerning formation of
22 a nonprofit tourist corporation, is amended to read as follows:

23 (a)(1) Any group of interested citizens and residents of counties
24 composing a natural planning region of this state and who are residents of
25 counties representing not less than fifty percent (50%) of the total
26 population of the region, but in no event fewer than fifteen (15)
27 individuals, who shall form a nonprofit corporation pursuant to the
28 provisions of the Arkansas Nonprofit Corporation Act, ~~§ 4-28-201 et seq.~~ §§
29 4-28-201 - 4-28-206 and 4-28-209 - 4-28-224, for the purpose of promoting
30 tourist travel and vacation business in the counties composing the natural
31 planning region and whose charters, bylaws, and purposes are in compliance
32 with the rules and regulations promulgated by the State Parks, Recreation,
33 and Travel Commission or the Department of Parks, Heritage, and Tourism
34 pursuant to the provisions of this subchapter may apply for recognition by
35 the commission as a regional tourist promotion agency under this subchapter.

36

1 SECTION 5556. Arkansas Code § 15-11-403(a), concerning designation of
2 a nonprofit tourism corporation, is amended to read as follows:

3 (a) The State Parks, Recreation, and Travel Commission or the
4 Department of Parks, Heritage, and Tourism, upon receipt of a copy of
5 incorporation papers, constitution, bylaws, and resolutions, if any, of a
6 nonprofit corporation applying for recognition as a regional tourist
7 promotion agency under the provisions of this subchapter, is authorized to
8 designate the applying corporation as a regional tourist promotion agency
9 under the provisions of this subchapter, provided that the commission shall
10 determine:

11 (1) That the applying agency is established under the Arkansas
12 Nonprofit Corporation Act, ~~§ 4-28-201 et seq.~~ §§ 4-28-201 – 4-28-206 and 4-
13 28-209 – 4-28-224, and has a constitution and bylaws governing the activities
14 and purposes of the corporation which are in compliance with the rules and
15 regulations of the commission established in furtherance of the purposes of
16 this subchapter;

17 (2) That the charter, constitution, or bylaws of the applying
18 agency provide for the selection of a board of directors and successor
19 members on the boards, of persons who have demonstrated knowledge of and
20 interest in the tourist travel and vacation business in the various counties
21 composing the region to be served by the agency; and

22 (3) That the applying agency has furnished a proposed plan and
23 demonstration of financial resources to establish and promote an active
24 tourist travel and vacation business promotion program within the region as
25 provided in this subchapter.

26
27 SECTION 5557. Arkansas Code § 15-11-404 is amended to read as follows:

28 15-11-404. Administrative agency.

29 The Tourism Division ~~of the Department of Parks and Tourism~~ is
30 designated as the administrative agency of this state to act under the
31 authority of the State Parks, Recreation, and Travel Commission or the
32 Department of Parks, Heritage, and Tourism in administering the provisions of
33 this subchapter.

34
35 SECTION 5558. Arkansas Code § 15-11-405(b) and (c), concerning grants
36 under the laws governing regional tourist promotion agencies, are amended to

1 read as follows:

2 (b) Upon approval of each application and the making of a grant by the
3 State Parks, Recreation, and Travel Commission in accordance therewith, the
4 commission or the Department of Parks, Heritage, and Tourism shall give
5 notice to the applying regional tourist promotion agency of the approval and
6 grant and shall direct the regional tourist promotion agency to proceed with
7 its promotional program as described in its application and to use therefor
8 funds allocated by the regional tourist promotion agency for such purposes.

9 (c) Upon the furnishing of evidence to the commission that the
10 particular regional tourist promotion agency has proceeded in accordance with
11 the terms of the application, the grant allocated to the regional tourist
12 promotion agency shall be paid to the regional tourist promotion agency by
13 the Tourism Division of the Department of Parks, Heritage, and Tourism.
14

15 SECTION 5559. Arkansas Code § 15-11-406(a), concerning grants from the
16 Department of Parks and Tourism, is amended to read as follows:

17 (a) Upon approval of the State Parks, Recreation, and Travel
18 Commission, the Department of Parks, Heritage, and Tourism is authorized to
19 make grants from funds specifically appropriated for such purposes to
20 regional tourist promotion agencies, to assist such regional tourist
21 promotion agencies in the financing of promotional and advertising programs,
22 and to encourage and stimulate tourist travel and vacation business within
23 the natural planning region.
24

25 SECTION 5560. Arkansas Code § 15-11-407(a), concerning federal funds
26 for the State Parks, Recreation, and Travel Commission and the Department of
27 Parks and Tourism, is amended to read as follows:

28 (a) The State Parks, Recreation, and Travel Commission or the
29 Department of Parks, Heritage, and Tourism is authorized to accept gifts,
30 grants, or donations from the federal government or agencies thereof, and
31 some private individuals, foundations, or concerns to be used in furtherance
32 of the purposes of this subchapter.
33

34 SECTION 5561. Arkansas Code § 15-11-408(a)(2), concerning the rules to
35 be promulgated by the State Parks, Recreation, and Travel Commission
36 regarding the use, reversion, and reallocation of matching state funds, is

1 amended to read as follows:

2 (2) The funds available to each regional tourist promotion
3 agency may be used for needed approved tourist promotion and advertising or
4 research programs designed to encourage and stimulate the visitor and
5 vacation business within the natural planning region and for operational and
6 administrative expenses, as may have been approved by the commission or the
7 ~~Department of Parks and Tourism~~ Department of Parks, Heritage, and Tourism.

8

9 SECTION 5562. Arkansas Code § 15-11-408(d), concerning the rules to be
10 promulgated by the State Parks, Recreation, and Travel Commission regarding
11 the use, reversion, and reallocation of matching state funds, is amended to
12 read as follows:

13 (d) In the event sufficient regional or local funds cannot be raised
14 to match the state funds appropriated for the matching fund program by
15 January 1 of each year, those state funds not applied for shall revert to the
16 advertising and promotion budget of the Tourism Division ~~of the Department of~~
17 ~~Parks and Tourism~~.

18

19 SECTION 5563. Arkansas Code § 15-11-409 is amended to read as follows:
20 15-11-409. Investigations and audits.

21 The State Parks, Recreation, and Travel Commission or the Tourism
22 ~~Division of the Department of Parks and Tourism~~ from time to time may make
23 such investigations and audits and require each participating regional
24 tourist promotion agency to furnish such evidence or proof to determine that
25 all funds granted under the provisions of this subchapter are being handled
26 and expended for the purposes as approved by the commission or the Department
27 of Parks, Heritage, and Tourism in awarding the grant.

28

29

30 SECTION 5564. Arkansas Code § 15-11-602 is amended to read as follows:
31 15-11-602. Administration office – Director – Duties.

32 (a) The Administrative Office of the Keep Arkansas Beautiful
33 Commission shall be located within the Department of Parks, Heritage, and
34 Tourism.

35 (b) The Director of the Administrative Office of the Keep Arkansas
36 Beautiful Commission shall be ~~appointed by and serve at the pleasure of~~

1 employed by the ~~Director~~ Secretary of the Department of Parks, Heritage, and
2 Tourism.

3 (c) The Director of the Administrative Office of the Keep Arkansas
4 Beautiful Commission shall develop and administer all programs and projects
5 of the Keep Arkansas Beautiful Commission and perform such other duties which
6 the ~~Director of the Department of Parks and Tourism~~ Secretary of the
7 Department of Parks, Heritage, and Tourism deems necessary and appropriate to
8 foster and promote the awareness of all Arkansans as to the need to protect
9 Arkansas's natural environment.

10
11 SECTION 5565. Arkansas Code § 15-11-603(10), concerning the powers and
12 duties of the Keep Arkansas Beautiful Commission, is amended to read as
13 follows:

14 (10) Serve in an advisory capacity to the Director of the
15 Administrative Office of the Keep Arkansas Beautiful Commission and the
16 ~~Director of the Department of Parks and Tourism~~ Secretary of the Department
17 of Parks, Heritage, and Tourism; and

18
19 SECTION 5566. Arkansas Code § 15-11-702(9), concerning the legislative
20 findings regarding the Wildlife Observation Trails Pilot Program, is amended
21 to read as follows:

22 (9) The Department of Parks, Heritage, and Tourism and the
23 Arkansas State Game and Fish Commission are interested in continuing a
24 Wildlife Observation Trails Pilot Program to ignite interest in the natural
25 cultural and scenic beauty and natural resources of Arkansas and to promote
26 economic development in a healthy and environmentally sound manner.

27
28 SECTION 5567. Arkansas Code § 15-11-704(b), concerning the Wildlife
29 Observation Trails Pilot Program, is amended to read as follows:

30 (b) The program shall be developed, implemented, and administered by
31 the Department of Parks, Heritage, and Tourism with the assistance of the
32 Arkansas State Game and Fish Commission.

33
34 SECTION 5568. The introductory language of Arkansas Code § 15-11-
35 705(a), concerning the development of a wildlife observation trail, is
36 amended to read as follows:

1 (a) To accept a wildlife observation trail into the Wildlife
2 Observation Trails Pilot Program and be eligible to receive grant moneys
3 under this subchapter, the Department of Parks, Heritage, and Tourism shall
4 require that the wildlife observation trail:

5
6 SECTION 5569. The introductory language of Arkansas Code § 15-11-
7 705(a)(1), concerning the development of a wildlife observation trail, is
8 amended to read as follows:

9 (1) Meet the criteria established by the department after
10 consultation with the Wildlife Observation Trails Pilot Program Advisory
11 Board. The criteria ~~includes~~ shall include without limitation:

12
13 SECTION 5570. Arkansas Code § 15-11-706 is amended to read as follows:
14 15-11-706. Wildlife Observation Trails Pilot Program Advisory Board –
15 Created.

16 (a)(1) There is continued an advisory body to the Department of Parks, Heritage,
17 Heritage, and Tourism to be known as the “Wildlife Observation Trails Pilot
18 Program Advisory Board” to provide recommendations to the ~~Director~~ Secretary
19 of the Department of Parks, Heritage, and Tourism and the Arkansas State Game
20 and Fish Commission to develop criteria to establish and fund the development
21 and maintenance of wildlife observation trails through the distribution of
22 grant moneys under this subchapter.

23 (2) The board is a voluntary board that consists of seven (7)
24 members that are appointed by the ~~Director~~ Secretary of the Department of
25 Parks, Heritage, and Tourism as follows:

26 (A) One (1) representative of the Arkansas Economic
27 Development Commission;

28 (B) One (1) representative of the Arkansas State Game and
29 Fish Commission;

30 (C) One (1) representative of the Arkansas Recreation and
31 Parks Association;

32 (D) One (1) representative of the Association of Arkansas
33 Counties;

34 (E) One (1) representative of the Arkansas Game and Fish
35 Foundation;

36 (F) One (1) representative of the Arkansas Audubon

1 Society; and

2 (G) One (1) representative of the Arkansas Municipal
3 League.

4 (b) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
5 Tourism shall:

6 (1) Assist the board in establishing criteria consistent with §
7 15-11-705 by the promulgation of rules in accordance with the Arkansas
8 Administrative Procedure Act, § 25-15-201 et seq., for recommendation of a
9 grant for the development of a wildlife observation trail in the Wildlife
10 Observation Trails Pilot Program; and

11 (2) Seek recommendations from the board for the selection of a
12 grant recipient.

13 (c) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
14 Tourism shall consult with the Director of the Arkansas State Game and Fish
15 Commission to establish criteria for the development and maintenance of
16 wildlife observation trails in the wildlife management areas that are managed
17 by the Arkansas State Game and Fish Commission.

18

19 SECTION 5571. Arkansas Code § 15-11-707(b)(1), concerning funding for
20 the Wildlife Observation Trails Pilot Program, is amended to read as follows:

21 (b)(1) The Department of Parks, Heritage, and Tourism and the
22 commission agree to execute a memorandum of understanding to delineate each
23 party's participation, obligation, and cooperation in the program sufficient
24 to fulfill the requirements of this subchapter.

25

26 SECTION 5572. Arkansas Code § 15-11-708 is amended to read as follows:
27 15-11-708. Grant distribution.

28 (a)(1) A grant application under this subchapter that meets the
29 criteria under § 15-11-705 shall be submitted to the Wildlife Observation
30 Trails Pilot Program Advisory Board by the ~~Director~~ Secretary of the
31 Department of Parks, Heritage, and Tourism for review and comment.

32 (2) The board shall recommend grants for approval by the
33 ~~director~~ secretary.

34 (3) The ~~director~~ secretary shall designate the grant recipients
35 that are eligible for moneys under this subchapter and notify the Arkansas
36 State Game and Fish Commission of the grant recipients.

1 (b) The commission agrees to receive grant designations submitted by
2 the ~~director~~ secretary and approve distribution of moneys annually to
3 eligible grant recipients in the Wildlife Observation Trails Pilot Program as
4 follows:

5 (1) A maximum of eighty percent (80%) of the moneys for grants
6 for wildlife observation trail development to cities or counties; and

7 (2) A maximum of twenty percent (20%) of the moneys for grants
8 for wildlife observation trail development to state agencies or nonprofit
9 organizations.

10
11 SECTION 5573. Arkansas Code § 15-11-709(a), concerning reporting on
12 the Wildlife Observation Trails Pilot Program, is amended to read as follows:

13 (a) The Arkansas State Game and Fish Commission and the Department of
14 Parks, Heritage, and Tourism shall report the status of the Wildlife
15 Observation Trails Pilot Program biannually to the Game and Fish/State Police
16 Subcommittee of the Legislative Council and the Parks and Tourism
17 Subcommittee of the Joint Budget Committee.

18
19 SECTION 5574. Arkansas Code § 15-11-802 is amended to read as follows:
20 15-11-802. Arkansas Great Places Program – Creation.

21 (a) The Department of ~~Arkansas Heritage~~ Parks, Heritage, and Tourism
22 shall administer and establish the Arkansas Great Places Program to:

23 (1) Provide planning and financial assistance to eligible
24 organizations for community development; and

25 (2) Combine resources of state government in an effort to
26 showcase the unique and authentic qualities of communities, regions,
27 neighborhoods, and districts that make those locations exceptional places to
28 work and live.

29 (b) The Arkansas Economic Development Commission ~~and the Department of~~
30 ~~Parks and Tourism~~ shall provide assistance to the ~~Department of Arkansas~~
31 Heritage Department of Parks, Heritage, and Tourism in administering and
32 establishing the program.

33
34 SECTION 5575. Arkansas Code § 15-11-803(b), concerning the definitions
35 and eligibility for the Arkansas Great Places Program, is amended to read as
36 follows:

1 (b)(1) An eligible organization may apply to the ~~Department of~~
2 ~~Arkansas Heritage~~ Department of Parks, Heritage, and Tourism for
3 participation in the Arkansas Great Places Program.

4 (2) The department shall forward applications for participation
5 in the program to the Arkansas Natural and Cultural Heritage Advisory
6 Committee to select applicants for participation in the program.

7
8 SECTION 5576. Arkansas Code § 15-11-804(c), concerning selection for
9 the Arkansas Great Places Program, is amended to read as follows:

10 (c) The ~~Department of Arkansas Heritage~~ Department of Parks, Heritage,
11 and Tourism shall work with the Arkansas Economic Development Commission to
12 maximize grants awarded to participants in the program.

13
14 SECTION 5577. Arkansas Code § 15-12-101(a)(1) and (2), concerning the
15 creation, members, and meetings of the Arkansas Natural and Cultural
16 Resources Council, are amended to read as follows:

17 (1) The ~~Director~~ Secretary of the Department of Parks, Heritage,
18 and Tourism or his or her designee;

19 (2) The Director of the ~~Department~~ Division of Arkansas Heritage
20 or his or her designee;

21
22 SECTION 5578. Arkansas Code § 15-12-101(b)(1), concerning the
23 creation, members, and meetings of the Arkansas Natural and Cultural
24 Resources Council, is amended to read as follows:

25 (1)(A) The ~~Director~~ Secretary of the Department of Parks,
26 Heritage, and Tourism, or his or her designee, the Director of the ~~Department~~
27 Division of Arkansas Heritage, or his or her designee, the Chair of the State
28 Parks, Recreation, and Travel Commission or his or her designee, and the
29 Chair of the Arkansas Natural Heritage Commission or his or her designee may
30 receive expense reimbursement for attending meetings of the council as
31 provided by § 25-16-902.

32 (B) Expense reimbursement under subdivision (b)(1)(A) of
33 this section shall be paid from funds appropriated for the support of the
34 Department of Parks, Heritage, and Tourism, the ~~Department~~ Division of
35 Arkansas Heritage, the State Parks, Recreation, and Travel Commission, and
36 the Arkansas Natural Heritage Commission, respectively; and

1
2 SECTION 5579. Arkansas Code § 15-12-101(b)(2)(B), concerning the
3 creation, members, and meetings of the Arkansas Natural and Cultural
4 Resources Council, is amended to read as follows:

5 (B) Expense reimbursement under subdivision (b)(2)(A) of
6 this section shall be paid from funds appropriated for the support of the
7 ~~Department of Arkansas Heritage~~ Department of Parks, Heritage, and Tourism.
8

9 SECTION 5580. Arkansas Code § 15-12-101(d)(2), concerning the
10 creation, members, and meetings of the Arkansas Natural and Cultural
11 Resources Council, is amended to read as follows:

12 (2) The ~~Director~~ Secretary of the ~~Department of Arkansas~~
13 Heritage Department of Parks, Heritage, and Tourism shall serve as Secretary
14 of the Arkansas Natural and Cultural Resources Council and shall serve as
15 disbursing officer of any funds appropriated for or administered by the
16 council.
17

18 SECTION 5581. Arkansas Code § 15-14-108 is amended to read as follows:
19 15-14-108. Rules and regulations.

20 The Arkansas Association of Development Organizations, Inc., after
21 having received input from the Department of Parks, Heritage, and Tourism,
22 ~~the Department of Arkansas Heritage~~, and the Arkansas Economic Development
23 Commission, shall promulgate rules and regulations to implement this chapter.
24

25 SECTION 5582. Arkansas Code § 15-20-705(a), concerning additional
26 duties of the State Parks, Recreation, and Travel Commission and the
27 Department of Parks and Tourism, is amended to read as follows:

28 (a) The State Parks, Recreation, and Travel Commission and the
29 Department of Parks, Heritage, and Tourism shall have the following duties in
30 addition to those otherwise prescribed by law:

31 (1) To identify and maintain a registry of lands and waters in
32 the state, whether publicly or privately owned, that exhibit outstanding
33 characteristics of scenic beauty;

34 (2) To cooperate with any federal, state, or local government
35 agency, private organization, or individual;

36 (3) To investigate, promote, advise, and assist in the

1 preservation, protection, enhancement, and management of scenic resources;

2 (4) To encourage private organizations and individuals to
3 recognize scenic resources and to utilize "best management practices" in all
4 instances, particularly those affecting scenic resources;

5 (5) To encourage scenic resources protection by working with
6 agencies and individuals to set up demonstration projects involving such
7 techniques as wildflower plots, adopt-a-spot programs, wetlands restoration,
8 and native plantings wherever possible;

9 (6) To notify federal agencies of the state's interest in
10 protecting scenic resources and to request that scenic resources protection
11 and enhancement be included in the appropriate planning activities of the
12 agencies;

13 (7) By December 1 of each year, submit a report to the ~~Governor~~
14 Secretary of the Department of Parks, Heritage, and Tourism and the General
15 Assembly describing and accounting for the status and condition of each entry
16 listed in the Registry of Scenic Resources and including any recommendations
17 to be considered by the secretary and General Assembly for improving and
18 enhancing the scenic beauty of the state; and

19 (8) To bring the Registry of Scenic Resources to the attention
20 of the public through its advertising and public relations efforts.

21
22 SECTION 5583. Arkansas Code § 15-20-706(c) and (d), concerning the
23 Registry of Scenic Resources are amended to read as follows:

24 (c) The registry shall be maintained by the Department of Parks,
25 Heritage, and Tourism.

26 (d) The registry shall be prepared in a manner which will enable the
27 ~~Department~~ Division of Arkansas Heritage to include registry records in its
28 environmental review procedures.

29
30 SECTION 5584. Arkansas Code § 15-45-302(a)(2), concerning creation of
31 the Nongame Preservation Committee, is amended to read as follows:

32 (2) The Director of the State Parks Division ~~of the Department~~
33 ~~of Parks and Tourism~~; and

34
35 SECTION 5585. Arkansas Code § 19-5-206(a)(2)(B), concerning service
36 charges against state agencies, is amended to read as follows:

1 (B) "State agency" shall not include the office of the
2 Commissioner of State Lands or the Department of Parks, Heritage, and
3 Tourism.
4

5 SECTION 5586. Arkansas Code § 19-5-206(b), concerning service charges
6 against state agencies, is amended to read as follows:

7 (b) Each state agency, whose annual income or revenue as reflected by
8 the previous fiscal year's audit exceeds twenty-five thousand dollars
9 (\$25,000), shall remit by check on the first day of each calendar quarter to
10 the Treasurer of State an amount equal to one and one-half percent (1 ½%) of
11 the total expenditures of the previous calendar quarter from those cash funds
12 as defined under § 19-4-801, excluding funds received from the federal
13 government or those held in trust by the state agency or those funds of the
14 various state retirement systems. Funds received by the ~~Department~~ Division
15 of Arkansas Heritage from voluntary donations shall also be excluded. In the
16 event that a state agency elects to deposit its cash funds into the State
17 Treasury under the provisions of § 19-4-503, then the amount required under
18 this section shall be transferred from the state agency's treasury fund to
19 the State Central Services Fund.
20

21 SECTION 5587. Arkansas Code § 19-5-956(b), concerning the
22 establishment of the Tourism Development Trust Fund, is amended to read as
23 follows:

24 (b) The fund shall consist of those special revenues as specified in §
25 19-6-301(146) and fifty percent (50%) of those special revenues as specified
26 in § 19-6-301(262), there to be used by the Department of Parks, Heritage,
27 and Tourism exclusively for the promotion of wine tourism in Arkansas.
28

29 SECTION 5588. Arkansas Code § 19-5-1001(b) and (c), concerning the
30 establishment of the Publication Development and Resale Revolving Fund, are
31 amended to read as follows:

32 (b) The fund shall consist of income derived from the sale of
33 publications by the ~~Department~~ Division of Arkansas Heritage or its
34 successor, there to be used to develop or purchase additional publications
35 for resale.

36 (c) The fund shall be administered by the Central Administration

1 Division of the Department of ~~Arkansas Heritage~~ Parks, Heritage, and Tourism
2 or its successor.

3
4 SECTION 5589. Arkansas Code § 19-5-1051(b), concerning the
5 establishment of the Parks and Tourism Outdoor Recreation Grants Fund, is
6 amended to read as follows:

7 (b) The fund shall consist of ten percent (10%) of those special
8 revenues as specified in § 19-6-301(145), there to be used by the Department
9 of Parks, Heritage, and Tourism for making grants for outdoor recreational
10 purposes to cities and counties of this state in accordance with the Arkansas
11 Statewide Comprehensive Outdoor Recreation Plan as set out in § 15-12-103.

12
13 SECTION 5590. Arkansas Code § 19-5-1245 is amended to read as follows:
14 19-5-1245. Arkansas Great Places Program Fund.

15 (a) The ~~Department~~ Division of Arkansas Heritage may establish in a
16 bank authorized to do business in this state and selected by the ~~department~~
17 division a revolving cash fund entitled "Arkansas Great Places Program Fund"
18 into which the ~~department~~ division shall deposit all funds received as
19 matching funds from eligible organizations participating in the Arkansas
20 Great Places Program under § 15-11-801 et seq.

21 (b) The ~~department~~ division may receive gifts, grants, bequests,
22 devises, and donations made to the ~~department~~ division, amounts received as
23 matching funds from eligible organizations participating in the Arkansas
24 Great Places Program under § 15-11-801 et seq., and any other funds
25 authorized by law to be used in the furtherance of the purposes of the
26 Arkansas Great Places Program under § 15-11-801 et seq.

27 (c) In addition, the ~~department~~ division may accept gifts, grants, or
28 donations from the federal government or agencies thereof, and private
29 individuals, foundations, or concerns to be used for the purposes of the
30 Arkansas Great Places Program under § 15-11-801 et seq.

31
32 SECTION 5591. Arkansas Code § 19-6-426 is amended to read as follows:
33 19-6-426. Arkansas Museum of Natural Resources Fund.

34 The Arkansas Museum of Natural Resources Fund shall consist of those
35 special revenues as specified in § 19-6-301(61) and (101), there to be used
36 for the construction, maintenance, operation, and improvement of the Arkansas

1 Museum of Natural Resources in exercising the powers, functions, and duties
2 as set out in § 13-5-401 et seq., and for paying the expenses of
3 administering such funds by the ~~department~~ Department of Parks, Heritage, and
4 Tourism as may be authorized by law.

5

6 SECTION 5592. Arkansas Code § 19-6-484(3)(B) and (C), concerning the
7 Conservation Tax Fund, are amended to read as follows:

8 (B) Forty-five percent (45%) to the Department of Parks, Heritage,
9 Heritage, and Tourism Fund Account to be used by the Department of Parks,
10 Heritage, and Tourism for state park purposes as appropriated by the General
11 Assembly;

12 (C) Nine percent (9%) to the Arkansas ~~Department~~ Division
13 of Heritage Fund Account to be used exclusively by the ~~Department~~ Division of
14 Arkansas Heritage as appropriated by the General Assembly; and

15

16 SECTION 5593. Arkansas Code § 19-6-818(a), concerning the Wildlife
17 Observation Trail Fund, is amended to read as follows:

18 (a) There is created on the books of the Treasurer of State, the
19 Auditor of State, and the Chief Fiscal Officer of the State a special revenue
20 fund to be known as the "Wildlife Observation Trail Fund" administered by the
21 Department of Parks, Heritage, and Tourism.

22

23 SECTION 5594. Arkansas Code § 19-6-833 is amended to read as follows:

24 19-6-833. Arkansas ~~Department~~ Division of Heritage Special Fund
25 Account.

26 (a) There is created on the books of the Treasurer of State, the
27 Auditor of State, and the Chief Fiscal Officer of the State a special revenue
28 fund to be known as the "Arkansas ~~Department~~ Division of Heritage Special
29 Fund Account".

30 (b) The fund shall consist of:

31 (1) That portion of moneys collected from the excise tax of one-
32 eighth of one percent (1/8 of 1%) levied by Arkansas Constitution, Amendment
33 75, as set out in § 19-6-484(3)(C); and

34 (2) Any other funds authorized or provided by law.

35 (c) The fund shall be used exclusively by the ~~Department~~ Division of
36 Arkansas Heritage as appropriated by the General Assembly.

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SECTION 5595. Arkansas Code § 19-6-834 is amended to read as follows:

19-6-834. Department of Parks, Heritage, and Tourism Fund Account.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Department of Parks, Heritage, and Tourism Fund Account”.

(b) The fund shall consist of:

(1) That portion of moneys collected from the excise tax of one-eighth of one percent (1/8 of 1%) levied by Arkansas Constitution, Amendment 75, as set out in § 19-6-484(3)(B); and

(2) Any other funds authorized or provided by law.

(c) The fund shall be used by the Department of Parks, Heritage, and Tourism for state park purposes as appropriated by the General Assembly.

SECTION 5596. Arkansas Code § 22-2-103(b), concerning the applicability of the Building Authority Division Act to other laws, is amended to read as follows:

(b) The provisions of this chapter shall not be construed to affect any bonds issued by state agencies or any covenants or obligations entered into in connection with such bonds or any revenues pledged or used in the security or payment of such bonds, or the production, handling, deposit, or application of such revenues, including bonds issued by the Arkansas Justice Building Commission, pursuant to § 22-3-901 et seq., by the Arkansas State Department of Health Building Commission [abolished], pursuant to Acts 1965, No. 469, by the Department of Parks, Heritage, and Tourism or the agency performing the functions thereof, pursuant to § 22-4-301 et seq., or by the Board of Developmental Disabilities Services or the agency performing the functions thereof, pursuant to § 20-48-411 and § 20-48-501 et seq.

SECTION 5597. Arkansas Code § 22-3-303(e), concerning the Capitol Zoning District Commission, is amended to read as follows:

(e)(1) The commission is authorized to employ a director subject to the approval of the Secretary of the Department of Parks, Heritage, and Tourism ~~and such other staff as the commission deems appropriate~~ and within legislative appropriation.

1 (2) The commission shall have the authority to enter into
2 contracts of any lawful nature, and to do any and all acts necessary to
3 effect the purposes of this subchapter.
4

5 SECTION 5598. Arkansas Code § 22-3-310(a)(1)(A), concerning an appeal
6 of a Capital Zoning District Commission action by an aggrieved person, is
7 amended to read as follows:

8 (a)(1)(A) Any person aggrieved by any rule, regulation, decision, or
9 order of the Capitol Zoning District Commission may appeal the action to the
10 ~~Director of the Department of Arkansas Heritage~~ Secretary of the Department
11 of Parks, Heritage, and Tourism.
12

13 SECTION 5599. Arkansas Code § 22-3-502(a)(2)(D), concerning the
14 creation and members of the Capitol Arts and Grounds Commission, is amended
15 to read as follows:

16 (D) The ~~Director~~ Secretary of the Department of Parks,
17 Heritage, and Tourism;
18

19 SECTION 5600. Arkansas Code § 22-3-804(a)(3), concerning the creation,
20 members, and proceedings of the Arkansas Governor's Mansion Commission, is
21 amended to read as follows:

22 (3) The ~~Director of the Department of Arkansas Heritage~~
23 Secretary of the Department of Parks, Heritage, and Tourism or his or her
24 designee shall serve as an ex officio voting member of the commission.
25

26 SECTION 5601. Arkansas Code § 22-3-1001(a)(1), concerning the creation
27 of the War Memorial Stadium Commission, is amended to read as follows:

28 (a)(1) There is created within the Department of Parks, Heritage, and
29 Tourism the War Memorial Stadium Commission consisting of eight (8) members
30 to be appointed by the Governor with the advice and consent of the Senate.
31

32 SECTION 5602. Arkansas Code § 22-3-1001(i) and (j), concerning the
33 creation, members, and meetings of the War Memorial Stadium Commission, are
34 amended to read as follows:

35 (i) The Governor shall designate a member of the commission as Chair
36 of the War Memorial Stadium Commission, and the member so designated shall

1 serve as chair at the pleasure of the Governor with advice from the ~~Director~~
2 Secretary of the Department of Parks, Heritage, and Tourism.

3 (j)(1) All meetings of the commission shall be held on call by the
4 chair with the consent of the ~~director~~ secretary, or by any four (4) or more
5 members with the consent of the ~~director~~ secretary, on advance notice to each
6 member and at such place as in each instance may suit the commission's and
7 the ~~director's~~ secretary's convenience.

8 (2) All meetings under subdivision (j)(1) of this section shall
9 be open to the public, and complete records of the proceedings shall be kept.

10
11 SECTION 5603. Arkansas Code § 22-3-1001(k)(2), concerning the
12 creation, members, and meetings of the War Memorial Stadium Commission, is
13 amended to read as follows:

14 (2) An action agreed to by the commission under subdivision
15 (k)(1) of this section is subject to the approval of the ~~director~~ secretary.

16
17 SECTION 5604. Arkansas Code § 22-3-1002(a)(1), concerning the powers
18 and duties of the Department of Parks and Tourism, is amended to read as
19 follows:

20 (a)(1) The Department of Parks, Heritage, and Tourism has and is
21 subject to the powers and duties conferred or imposed upon the department by
22 this subchapter concerning the War Memorial Stadium Commission.

23
24 SECTION 5605. Arkansas Code § 22-3-1010 is amended to read as follows:
25 22-3-1010. Audit of accounts – Reports.

26 An audit of the records and accounts of the Department of Parks,
27 Heritage, and Tourism concerning the War Memorial Stadium Commission shall be
28 made each year, and a copy of the report shall be filed with the Legislative
29 Council, the Governor, and the Chief Fiscal Officer of the State.

30
31 SECTION 5606. Arkansas Code § 22-3-1011(a)-(c), concerning the
32 establishment of bank accounts by the Department of Parks and Tourism, are
33 amended to read as follows:

34 (a) The ~~Director~~ Secretary of the Department of Parks, Heritage, and
35 Tourism on behalf of the War Memorial Stadium Commission may open accounts in
36 the name of the Department of Parks, Heritage, and Tourism in one (1) or more

1 banks and deposit into those bank accounts all moneys received from the sale
2 of the Department of Parks, Heritage, and Tourism's bonds and from
3 admissions, fees, concessions, rents, and other charges collected for the use
4 of War Memorial Stadium or from any other source.

5 (b) From the bank accounts, the Department of Parks, Heritage, and
6 Tourism on behalf of the commission may withdraw funds for payment of the
7 following:

- 8 (1) Cost of the construction of War Memorial Stadium;
- 9 (2) Expenses of the commission's members;
- 10 (3) Salaries of a custodian, groundskeepers, and such other
11 personnel as the Department of Parks, Heritage, and Tourism may employ;
- 12 (4) Insurance premiums for fire, lightning, and tornado
13 insurance;
- 14 (5) Such other items of reasonable expense as, in the opinion of
15 the Department of Parks, Heritage, and Tourism with advice from the
16 commission, may be required to maintain and operate War Memorial Stadium; and
17 (6) Amounts paid contesting colleges or schools.

18 (c)(1) All withdrawals of funds in the bank accounts shall be made by
19 use of voucher-checks, the form of which shall be prescribed by the ~~Director~~
20 Secretary of the Department of Finance and Administration.

21 (2) All voucher-checks so drawn are subject to preaudit by the
22 ~~Director~~ Secretary of the Department of Finance and Administration.
23

24 SECTION 5607. Arkansas Code § 22-4-103(1)(B), concerning the powers of
25 the State Parks, Recreation, and Travel Commission, is amended to read as
26 follows:

27 (B) If the Department of Parks, Heritage, and Tourism is
28 unable to agree with the owner of the land, or if by legal incapacity or
29 absence of the owner, no agreement can be made for the purchase, the land may
30 be acquired by condemnation proceedings instituted in the name of the state
31 in the manner provided by law for the condemnation of property for public
32 purposes.
33

34 SECTION 5608. Arkansas Code § 22-4-103(3), concerning the powers of
35 the State Parks, Recreation, and Travel Commission, is amended to read as
36 follows:

1 (3) To apply to the Commissioner of State Lands for the transfer
2 of any state-owned land or land the title to which has reverted to the state
3 by reason of tax delinquency and which is deemed by the Department of Parks,
4 Heritage, and Tourism as suitable and desirable for park and recreational
5 purposes. The Commissioner of State Lands is authorized and directed to make
6 such transfers which shall operate as an appropriation of the land for park
7 and recreational purposes forever and shall be a bar to any grants by the
8 state of the land so transferred or of any interest in it for any purpose
9 whatsoever;

10
11 SECTION 5609. Arkansas Code § 22-4-103(8), concerning the powers of
12 the State Parks, Recreation, and Travel Commission, is amended to read as
13 follows:

14 (8) To appoint local and regional park and recreational councils
15 to consider, study, and advise in the work of the commission for the
16 extension, development, use, and maintenance of the parks for which
17 appointed. The Chair of the State Parks, Recreation, and Travel Commission
18 and the ~~Director~~ Secretary of the Department of Parks, Heritage, and Tourism
19 shall be ex officio members of all councils so appointed; and

20
21 SECTION 5610. Arkansas Code § 22-4-105(a), concerning the leasing
22 powers of the Department of Parks and Tourism, is amended to read as follows:

23 (a) The Department of Park, Heritage, and Tourism, in addition to any
24 other powers granted in this chapter, shall have the sole authority to lease
25 state park lands to private companies and to authorize the lessees to
26 construct, maintain, and operate overnight accommodation facilities,
27 recreational facilities, and the other major facilities which the department
28 may deem appropriate.

29
30 SECTION 5611. Arkansas Code § 22-4-106(a), concerning the procedure
31 for establishing and acquiring property for state parks, is amended to read
32 as follows:

33 (a) The Department of Parks, Heritage, and Tourism and the State
34 Parks, Recreation, and Travel Commission are directed to consult with and
35 seek the advice of the Governor, the ~~Director~~ Secretary of the Department of
36 Finance and Administration, and the Legislative Council before establishing

1 and acquiring properties for new state parks or before making acquisitions of
2 real property for additions to or expansions of existing state parks which
3 have not been specifically authorized or funded by the General Assembly.
4

5 SECTION 5612. Arkansas Code § 22-4-109(a), concerning the acquisition
6 of land for hiking trails, is amended to read as follows:

7 (a) The Department of Parks, Heritage, and Tourism is authorized to
8 acquire, by purchase, gift, or devise, interest in real property less than
9 fee interest, including, but not limited to, easements for the purpose of
10 establishing trails for public hiking and for related purposes over lands
11 contiguous to lands controlled by the department.
12

13 SECTION 5613. Arkansas Code § 22-4-403 is amended to read as follows:

14 22-4-403. Administration of Arkansas Trails System.

15 A statewide trails system to be called the "Arkansas Trails System" is
16 authorized to be administered by the State Parks Division ~~of the Department~~
17 ~~of Parks and Tourism~~. The administration shall include:

18 (1) Coordination of trail development between state, federal,
19 county, municipal, and private entities;

20 (2) Development of a wide variety of types of trails to provide
21 maximum trail opportunities for the citizens of Arkansas;

22 (3) Establishment of an interconnected trails system by
23 developing new trails or by connecting existing trails or recreation areas;

24 (4) Encouraging the development of trails in or near population
25 centers;

26 (5) Providing technical assistance for trail development and
27 maintenance; and

28 (6) Providing information about Arkansas trails.
29

30 SECTION 5614. Arkansas Code § 22-4-404(a), concerning the creation,
31 powers, and duties of the Arkansas Trails Council, is amended to read as
32 follows:

33 (a) An advisory body to the State Parks Division ~~of the Department of~~
34 ~~Parks and Tourism~~ to be known as the "Arkansas Trails Council", is created
35 for the purpose of informing the ~~division~~ State Parks Division, other trail-
36 providing agencies, and the public at large of public need, use, and ongoing

1 and planned trail development and to provide a public forum for discussion of
2 trail-related issues.

3

4 SECTION 5615. Arkansas Code § 22-4-404(c), concerning the creation,
5 power, and duties of the Arkansas Trails Council, is amended to read as
6 follows:

7 (c) The Department of Parks, Heritage, and Tourism's representative on
8 the council shall serve as the council's executive secretary.

9

10 SECTION 5616. Arkansas Code § 22-4-405 is amended to read as follows:

11 22-4-405. Criteria for acceptance into Arkansas Trails System.

12 Trails accepted into the Arkansas Trails System shall meet criteria as
13 established by the Arkansas Trails Council and the State Parks Division ~~of~~
14 ~~the Department of Parks and Tourism~~, which shall include:

15 (1) A guaranteed right-of-way for public use for a minimum
16 period of five (5) years;

17 (2) Trail operation and maintenance for a minimum period of five
18 (5) years by an acceptable responsible organization;

19 (3) Adherence to state trails standards and guidelines for the
20 trail type designated;

21 (4) Readiness of the trail for public use;

22 (5) Proper marking and signing; and

23 (6) Conformity of the trail with goals established in the
24 Statewide Comprehensive Outdoor Recreation Plan or the Arkansas Trails Plan.

25

26

27 SECTION 5617. Arkansas Code § 24-4-727(e), concerning War Memorial
28 Stadium Commission employees, is amended to read as follows:

29 (e) The Department of Parks, Heritage, and Tourism on behalf of the
30 commission shall pay into the fund such sums of money as are necessary to
31 match the contributions of its employees in the same form and manner as other
32 public employers and shall be subject to all the provisions of this chapter,
33 to the same extent as other public employers.

34

35 SECTION 5618. Arkansas Code § 25-1-205(b)(5), concerning filing copies
36 of distributed state agency publications with the Legislative Council, is

1 amended to read as follows:

2 (5) Promotional brochures and educational materials published by
3 the Department of Parks, Heritage, and Tourism;

4

5 SECTION 5619. Arkansas Code § 25-3-101(b), concerning the legislative
6 intent creating the Department of Arkansas Heritage, is amended to read as
7 follows:

8 (b) It is the intent of the General Assembly to provide for an orderly
9 transfer of powers, duties, and functions of the various state programs or
10 agencies to the Department of Arkansas Heritage or Division of Arkansas
11 Heritage with a minimum of disruption of governmental services and functions
12 and with a minimum of expense.

13

14 SECTION 5620. Arkansas Code § 25-3-102 is amended to read as follows:

15 25-3-102. Creation – Director – Organization – Personnel.

16 (a) There is created a ~~Department~~ Division of Arkansas Heritage.

17 (b)(1) The executive head of the ~~department~~ division shall be the
18 Director of the ~~Department~~ Division of Arkansas Heritage.

19 (2) The director shall be appointed by the Governor, subject to
20 confirmation by the Senate, and shall serve at the pleasure of the Governor.

21 (3) The director shall report to the Secretary of the Department
22 of Parks, Heritage, and Tourism.

23 (c) The director, with the advice and consent of the Governor and the
24 secretary, shall appoint the heads of each of the programs and agencies of
25 the ~~department~~ division. All other personnel of the ~~department~~ division shall
26 be employed by and serve at the pleasure of the director. However, nothing in
27 this section shall be so construed as to reduce any right which an employee
28 of the ~~department~~ division shall have under any civil service or merit
29 system.

30 (d) Each agency or program of the ~~department~~ division shall be under
31 the direction, control, and supervision of the ~~department~~ division. The
32 director may delegate his or her functions, powers, and duties to the head of
33 any agency or program of the ~~department~~ division as he or she shall deem
34 desirable and necessary for the effective and efficient operation of the
35 ~~department~~ division.

36

1 SECTION 5621. Arkansas Code § 25-3-104(a), concerning the creation of
2 the Arkansas Natural and Cultural Heritage Advisory Committee, is amended to
3 read as follows:

4 (a) There is established an Arkansas Natural and Cultural Heritage
5 Advisory Committee whose members shall consist of:

6 (1) The Director of the ~~Department~~ Division of Arkansas
7 Heritage;

8 (2) The ~~Executive~~ Director of the Arkansas Economic Development
9 Commission;

10 (3) The Director of State Highways and Transportation;

11 (4) The ~~Director~~ Secretary of the Department of Health;

12 (5) The ~~Director~~ Secretary of the Department of Parks, Heritage,
13 and Tourism;

14 (6) The Director of the Arkansas State Game and Fish Commission;

15 (7) A person appointed by the Governor;

16 (8) A person appointed by the President Pro Tempore of the
17 Senate; and

18 (9) A person appointed by the Speaker of the House of
19 Representatives.

20
21 SECTION 5622. Arkansas Code § 25-3-105(a), concerning fees for
22 publications, seminars and other educational materials, is amended to read as
23 follows:

24 (a) The ~~Department~~ Division of Arkansas Heritage through ~~its~~ a Central
25 Administration Division or any successor division is authorized to establish
26 and impose reasonable fees to recover costs incurred in the preparation and
27 distribution of educational published materials and in holding workshops and
28 seminars and costs of other services rendered.

29
30 SECTION 5623. Arkansas Code § 25-3-106(a), concerning the Publication
31 Development and Resale Revolving Fund, is amended to read as follows:

32 (a) There is established a fund to be known as the Publication
33 Development and Resale Revolving Fund for the ~~Department~~ Division of Arkansas
34 Heritage. This fund shall be located in the Central Administration Division
35 of the ~~Department~~ Division of Arkansas Heritage and shall be managed by the
36 ~~division~~ Central Administration Division for the benefit of the various

1 agencies located within the ~~department~~ Division of Arkansas Heritage. This
2 fund shall be a revolving fund.

3
4 SECTION 5624. Arkansas Code § 25-3-108 is amended to read as follows:

5 25-3-108. Heritage foundation.

6 (a) In addition to any other rights, powers, functions, and duties
7 granted by law to the ~~Department~~ Division of Arkansas Heritage, the
8 ~~department~~ division is hereby authorized to promote and cooperate in the
9 establishment of a heritage foundation under the Arkansas nonprofit
10 corporation law, to share resources and facilities with the foundation, and
11 to accept support and assistance in the form of money, property, or otherwise
12 from the foundation to be used to preserve and promote the heritage of the
13 state.

14 (b) If a heritage foundation is established and the ~~department~~
15 division shares resources or facilities with the foundation or accepts
16 support and assistance from the foundation, the foundation shall annually
17 file a report with the Governor, the Legislative Council, and the Legislative
18 Joint Auditing Committee showing the amount and source of all gifts, grants,
19 and donations of money or property received by the foundation and all
20 expenditures or other dispositions of money or property by the foundation
21 during the preceding year.

22 (c) On or before July 1 of each fiscal year, the Director of the
23 ~~Department~~ Division of Arkansas Heritage shall submit a plan to the
24 Legislative Council reflecting the proposed uses of private funds for the
25 ensuing fiscal year for its review and comment. No person over whom the
26 ~~department~~ division has day-to-day managerial control shall receive
27 compensation or remuneration from funds not in the State Treasury.

28
29 SECTION 5625. Arkansas Code Title 25, Chapter 13, is repealed.

30 ~~Chapter 13~~

31 ~~Department of Parks and Tourism~~

32
33 ~~Subchapter 1 — General Provisions~~

34
35 ~~25-13-101. Creation — Director — Organization — Personnel.~~

36 ~~(a) There is created a Department of Parks and Tourism.~~

1 ~~(b) The executive head of the department shall be the Director of the~~
2 ~~Department of Parks and Tourism. The director shall be appointed by the~~
3 ~~Governor with the consent of the Senate and shall serve at the pleasure of~~
4 ~~the Governor.~~

5 ~~(c) The department shall consist of those divisions which constituted~~
6 ~~the State Parks, Recreation, and Travel Commission as of July 1, 1971, and~~
7 ~~any other divisions which may be created by law and placed under the~~
8 ~~department.~~

9 ~~(d) The director, with the advice and consent of the Governor, shall~~
10 ~~appoint the heads of the respective divisions. All other personnel of the~~
11 ~~department shall be employed by and serve at the pleasure of the director.~~
12 ~~Provided, nothing in this section shall be so construed as to reduce any~~
13 ~~right which an employee of the department shall have under any civil service~~
14 ~~or merit system.~~

15 ~~(e) Each division of the department shall be under the direction,~~
16 ~~control, and supervision of the director. The director may delegate his or~~
17 ~~her functions, powers, and duties to various divisions of the department as~~
18 ~~he or she shall deem desirable and necessary for the effective and efficient~~
19 ~~operation of the department.~~

20
21 ~~25-13-102. Great River Road Division.~~

22 ~~(a) The Mississippi River Parkway Commission of Arkansas, as~~
23 ~~established pursuant to § 27-69-201 et seq., shall be located in the Great~~
24 ~~River Road Division created hereby.~~

25 ~~(b) The Director of the Department of Parks and Tourism, with the~~
26 ~~advice and consent of the Governor and the Chairman of the national~~
27 ~~Mississippi River Parkway Planning Commission, shall appoint the head of the~~
28 ~~Great River Road Division of the Department of Parks and Tourism.~~

29
30 ~~25-13-103. Payment of gratuities.~~

31 ~~The Department of Parks and Tourism, which from time to time will use~~
32 ~~the services of hotels and restaurants for conferences, conventions,~~
33 ~~meetings, advertising promotions, news blitzes, and other group functions, is~~
34 ~~authorized to pay such reasonable charges of involuntary gratuities for group~~
35 ~~functions as a part of the cost of services.~~

36

1 ~~25-13-104. Extra help restriction.~~

2 ~~No employee of the State Parks Division of the Department of Parks and~~
3 ~~Tourism who is employed as extra help may receive an amount to exceed eighty-~~
4 ~~five percent (85%) of the maximum annual salary for a comparable position as~~
5 ~~authorized under the Uniform Classification and Compensation Act, § 21-5-201~~
6 ~~et seq., during any fiscal year, nor shall such an employee be employed for a~~
7 ~~period of time to exceed one thousand eight hundred (1,800) hours in any~~
8 ~~single fiscal year.~~

9
10
11 SECTION 5626. Arkansas Code § 26-26-720 is amended to read as follows:
12 26-26-720. Correcting descriptions already on books.

13 The Attorney General is authorized to have corrected any part of the
14 description of lands on the books of the Commissioner of State Lands in the
15 manner provided. This authority shall be exercised upon the application of
16 any applicant to purchase or upon application by the Department of Parks,
17 Heritage, and Tourism, the Arkansas Forestry Commission, or the Arkansas
18 State Game and Fish Commission.

19
20 SECTION 5627. Arkansas Code § 26-51-2203(3), concerning the definition
21 of "certification of completion" under the Arkansas Historic Rehabilitation
22 Income Tax Credit Act, is amended to read as follows:

23 (3) "Certification of completion" means a certificate issued by
24 the ~~Department~~ Division of Arkansas Heritage certifying that a project is a
25 certified rehabilitation of an eligible property that qualifies for the
26 Arkansas historic rehabilitation income tax credit;

27
28 SECTION 5628. Arkansas Code § 26-51-2203(7), concerning the definition
29 of "certification of completion" under the Arkansas Historic Rehabilitation
30 Income Tax Credit Act, is amended to read as follows:

31 (7) "Owner" means a person or an entity that owns eligible
32 property and is the initial recipient of the certification of completion from
33 the ~~department~~ division;

34
35 SECTION 5629. Arkansas Code § 26-51-2204(c)(1), concerning the
36 Arkansas historic rehabilitation income tax credit, is amended to read as

1 follows:

2 (c)(1) The ~~Department~~ Division of Arkansas Heritage shall only issue
3 Arkansas historic rehabilitation income tax credits for up to four million
4 dollars (\$4,000,000) in any one (1) fiscal year.

5

6 SECTION 5630. Arkansas Code § 26-51-2204(e)-(h), concerning the
7 Arkansas historic rehabilitation income tax credit, are amended to read as
8 follows:

9 (e) Upon completion of a rehabilitation, the owner shall submit
10 documentation required by the ~~department~~ division to verify that the
11 completed rehabilitation qualifies as a certified rehabilitation.

12 (f) If the ~~department~~ division determines that a rehabilitation
13 qualifies as a certified rehabilitation and that the certified rehabilitation
14 is complete, the ~~department~~ division shall issue a freely transferable
15 certification of completion specifying the total amount of the qualified
16 rehabilitation expenses and Arkansas historic rehabilitation income tax
17 credit allowed.

18 (g)(1) If the owner requests a review of the ~~department~~ division
19 determination under subsection (f) of this section, the owner shall submit a
20 written request for review of the determination.

21 (2) The owner shall submit the request in writing to the
22 ~~department~~ division within thirty (30) days of the date of notification to
23 the owner of the determination.

24 (h)(1) The owner shall certify to the ~~department~~ division the validity
25 of costs and expenses claimed as qualified rehabilitation expenses and shall
26 maintain a record supporting the claim for at least five (5) years after the
27 issuance of the certification of completion.

28 (2) An owner's record supporting a claim for qualified
29 rehabilitation expenses may be reviewed by the ~~department~~ division, the
30 appropriate tax collection authority, or a holder.

31

32 SECTION 5631. Arkansas Code § 26-51-2205(h), concerning the procedure
33 to claim a tax credit and transferring credit, is amended to read as follows:

34 (h) An owner or holder that assigns part or all of an Arkansas
35 historic rehabilitation income tax credit shall perfect the transfer by
36 notifying the ~~Department~~ Division of Arkansas Heritage and the appropriate

1 tax collection authority in writing within thirty (30) calendar days
2 following the effective date of the transfer and shall provide any
3 information as may be required by the ~~department~~ division and the appropriate
4 tax collection authority to administer and carry out this subchapter and to
5 ensure proper tracking of the ownership of the unused Arkansas historic
6 rehabilitation income tax credit.

7
8 SECTION 5632. Arkansas Code § 26-51-2206(a)(1), concerning fees
9 charged by the Department of Arkansas Heritage, is amended to read as
10 follows:

11 (a)(1) The ~~Department~~ Division of Arkansas Heritage may charge a
12 fee to process:

13 (A) An application for an Arkansas historic rehabilitation
14 income tax credit; and

15 (B) A request to record transfers of interests in an
16 Arkansas historic rehabilitation income tax credit to other holders.

17
18 SECTION 5633. Arkansas Code § 26-51-2206(b), concerning fees charged
19 by the Department of Arkansas Heritage, is amended to read as follows:

20 (b) A fee collected under this subchapter by the ~~department~~ division
21 shall be considered cash funds of the ~~department~~ division and shall be used
22 for the administration of this subchapter.

23
24 SECTION 5634. Arkansas Code § 26-51-2207 is amended to read as
25 follows:

26 26-51-2207. Rules.

27 (a) The ~~Department~~ Division of Arkansas Heritage shall promulgate
28 rules to implement this subchapter that shall include criteria for the
29 prioritizing of the rehabilitation applications and that will stimulate the
30 local economy where the property is located, including without limitation the
31 criteria that the rehabilitation project will be prioritized in the following
32 order:

33 (1) Result in the creation of a new business;

34 (2) Result in the expansion of an existing business;

35 (3) Establish or contribute to the establishment of a tourism
36 attraction as defined by the Department of Parks, Heritage, and Tourism;

1 (4) Contribute to the revitalization of a specific business
2 district; or

3 (5) Be a key property in the revitalization of a specific
4 neighborhood.

5 (b) The ~~Department~~ Division of Arkansas Heritage shall consult with
6 the Department of Finance and Administration, the Arkansas Economic
7 Development Commission, and the State Insurance Department in promulgating
8 rules under this subchapter.

9 (c) The Department of Parks, Heritage, and Tourism shall promulgate
10 rules to define a "tourism attraction" as provided in subdivision (a)(3) of
11 this section.

12
13 SECTION 5635. Arkansas Code § 26-57-604(c)(1), concerning the
14 remittance of tax, is amended to read as follows:

15 (c)(1) In addition to any premium tax credit not related to the same
16 eligible property for which an insurer qualifies under subsection (a) of this
17 section, there is allowed a premium tax credit for the amount of the Arkansas
18 historic rehabilitation income tax credit allowed by the certification of
19 completion issued by the ~~Department~~ Division of Arkansas Heritage under the
20 Arkansas Historic Rehabilitation Income Tax Credit Act, § 26-51-2201 et seq.

21
22 SECTION 5636. Arkansas Code § 26-63-405(c), concerning the Tourism
23 Development Trust Fund, is amended to read as follows:

24 (c) All revenues collected under this subchapter and credited to the
25 fund shall be used by the Department of Parks, Heritage, and Tourism
26 exclusively for the promotion of tourism in Arkansas.

27
28 SECTION 5637. Arkansas Code § 27-24-1601 is amended to read as
29 follows:

30 27-24-1601. Purpose.

31 The purpose of this subchapter is to:

32 (1) Authorize the design and issuance of license plates
33 featuring state parks for the Department of Parks, Heritage, and Tourism;

34 (2) Provide funding to a cash fund to be used by the Department
35 of Parks, Heritage, and Tourism for sponsoring college scholarships in the
36 state parks profession and the state parks education programs; and

1 (3) Authorize the Department of Finance and Administration to
2 issue, renew, and replace the license plates authorized for the Department of
3 Parks, Heritage, and Tourism.

4
5 SECTION 5638. Arkansas Code § 27-24-1603(b)(2), concerning the
6 issuance, renewal, and replacement of a license plate, is amended to read as
7 follows:

8 (2)(A) A fee not to exceed twenty-five dollars (\$25.00) to cover
9 the design-use contribution by the Department of Parks, Heritage, and Tourism
10 or to cover contributions for fundraising purposes.

11 (B) The fee remitted under subdivision (b)(2)(A) of this
12 section shall be deposited into a cash fund to be used by the Department of
13 Parks, Heritage, and Tourism for the following purposes:

14 (i) Sponsoring college scholarships related to the
15 field of conservation; and

16 (ii) Providing conservation education programs; and
17

18 SECTION 5639. Arkansas Code § 27-67-204(b), concerning the designation
19 of roads in and connected to state parks, is amended to read as follows:

20 (b) The provisions of this section shall be applicable to all state
21 parks which are now or may hereafter be placed under the control and
22 direction of the Department of Parks, Heritage, and Tourism.
23

24 SECTION 5640. Arkansas Code § 27-67-204(d)(3) and (4), concerning the
25 designation of roads in and connected to state parks, are amended to read as
26 follows:

27 (3) The Department of Parks, Heritage, and Tourism shall study
28 the needs for public parking areas and parking facilities at the respective
29 state parks and shall notify the Arkansas Department of Transportation
30 thereof.

31 (4) The Arkansas Department of Transportation may cooperate with
32 the Department of Parks, Heritage, and Tourism in the construction and
33 maintenance of such facilities.
34

35 SECTION 5641. Arkansas Code § 27-67-204(e)(1), concerning the
36 designation of roads in and connected to state parks, is amended to read as

1 follows:

2 (e)(1) Notwithstanding any law to the contrary the Department of
3 Parks, Heritage, and Tourism is permitted by regulation to authorize the use
4 of motorized scooters on roads within areas under the control and management
5 of the Department of Parks, Heritage, and Tourism.

6

7 SECTION 5642. Arkansas Code § 27-67-224(a)(2)(B), concerning the
8 Arkansas Wine Country Trail, is amended to read as follows:

9 (B) The Arkansas Department of Transportation shall
10 determine the location of the Arkansas Wine Country Trail in consultation
11 with the Department of Parks, Heritage, and Tourism.

12

13 SECTION 5643. Arkansas Code § 27-67-224(a)(4), concerning the Arkansas
14 Wine Country Trail, is amended to read as follows:

15 (4) The signs shall be of size and shape and of materials
16 designated by the Arkansas Department of Transportation in consultation with
17 the Department of Parks, Heritage, and Tourism.

18

19 SECTION 5644. Arkansas Code § 27-67-224(b)(3), concerning the Arkansas
20 Wine Country Trail, is amended to read as follows:

21 (3) This sign, but on a smaller scale, shall be used as the
22 symbol on the state highway map and in all tourism literature published by
23 the Department of Parks, Heritage, and Tourism to indicate the Arkansas Wine
24 Country Trail or individual vineyards, wineries, or cellars that are part of
25 the Arkansas Wine Country Trail.

26

27 SECTION 5645. Arkansas Code § 27-67-322(f)(1), concerning the
28 reacquisition of surplus property by a former owner, is amended to read as
29 follows:

30 (f)(1) The transfer of surplus rail and other railroad track material
31 purchased in part with federal transportation enhancement funds and granted
32 to the State Parks, Recreation, and Travel Commission or the Department of
33 Parks, Heritage, and Tourism, or both, by the State Highway Commission shall
34 not be subject to the procedures set forth in subsections (a)-(e) of this
35 section.

36

1 SECTION 5646. Arkansas Code § 27-67-322(f)(3)(B), concerning the
2 reacquisition of surplus property by a former owner, is amended to read as
3 follows:

4 (B) A transfer document executed by the State Parks,
5 Recreation, and Travel Commission or the Department of Parks, Heritage, and
6 Tourism, or both.

7
8 SECTION 5647. Arkansas Code § 27-69-205 is amended to read as follows:
9 27-69-205. Advisors and assistants.

10 The Director of State Highways and Transportation shall designate one
11 (1) employee of the Arkansas Department of Transportation who is an engineer
12 or who has engineering experience, and the ~~Director~~ Secretary of the
13 Department of Parks, Heritage, and Tourism shall appoint one (1) member of
14 his or her staff, who shall advise and assist the Mississippi River Parkway
15 Commission of Arkansas in carrying out its functions and duties under this
16 subchapter.

17
18 SECTION 5648. Arkansas Code § 27-74-213 is amended to read as follows:
19 27-74-213. Rest areas.

20 In order to provide information in the specific interest of the
21 traveling public, the State Highway Commission is authorized to maintain maps
22 and to permit informational directories and advertising pamphlets to be made
23 available at safety rest areas along the interstate, primary, and other state
24 highways designated by the commission and to establish information centers in
25 cooperation with the Department of Parks, Heritage, and Tourism at safety
26 rest areas for the purpose of informing the public of places of interest
27 within the state and providing other information as may be considered
28 desirable.

29
30 SECTION 5649. Arkansas Code § 27-101-105(a)(1)(B), concerning the
31 failure to obey an officer, is amended to read as follows:

32 (B) Certified law enforcement officers of the Department
33 of Parks, Heritage, and Tourism and municipal police officers may enforce the
34 provisions of this chapter.

35
36 SECTION 5650. Arkansas Code Title 25, Chapter 43, is amended to add an

1 additional subchapter to read as follows:

2 Subchapter 14 - Department of Public Safety

3

4 25-43-1401. Department of Public Safety.

5 There is created a Department of Public Safety as a cabinet-level
6 department.

7

8 25-43-1402. State entities transferred to Department of Public Safety.

9 (a) The administrative functions of the following state entities are
10 transferred to the Department of Public Safety by a cabinet-level transfer:

11 (1) The Arkansas Commission on Law Enforcement Standards and
12 Training, created under § 12-9-103;

13 (2) The Arkansas Crime Information Center, created under § 12-
14 12-201;

15 (3) The Arkansas Emergency Telephone Services Board, created
16 under § 12-10-318;

17 (4) The Arkansas Homeland Security Advisory Group, created under
18 12-75-132;

19 (5) The Arkansas State Police Commission, created under § 12-8-
20 102;

21 (6) The Child Abuse Hotline, created under § 12-18-301;

22 (7) The Crimes Against Children Division, created under § 12-8-
23 502;

24 (8) The Crime Victims Reparations Board, created under § 16-90-
25 705;

26 (9) The Arkansas Department of Emergency Management, created
27 under § 12-75-109, now known as the Division of Emergency Management;

28 (10) The Department of Arkansas State Police, created under §
29 12-8-101, now known as the Division of Arkansas State Police;

30 (11) The Law Enforcement Support Office, referenced under § 19-
31 11-605;

32 (12) The Office of Fire Protection Services, created under § 20-
33 22-805;

34 (13) The State Crime Laboratory, created under § 12-12-301;

35 (14) The State Crime Laboratory Board, created under § 12-12-
36 302;

1 (15) The State Emergency Response Commission, created under 12-
2 82-104;

3 (16) The State Fire Prevention Commission, created under § 20-
4 22-202; and

5 (17) The Supervisory Board for the Arkansas Crime Information
6 Center, created under § 12-12-202.

7 (b) Unless otherwise provided by law, a cabinet-level department
8 transfer under subsection (a) of this section includes all state entities
9 under a state entity transferred to the Department of Public Safety under
10 subsection (a) of this section, including without limitation a division,
11 office, program, or other unit of a state entity transferred to the
12 Department of Public Safety under subsection (a) of this section.

13 (c) Unless otherwise provided by law, a state entity whose
14 administrative functions have been transferred to Department of Public Safety
15 under subsection (a) of this section shall otherwise continue to exercise the
16 duties of the state entity under the administration of the cabinet-level
17 Department of Public Safety in the same manner as before the creation of the
18 cabinet-level department.

19
20 25-43-1403. Secretary of the Department of Public Safety.

21 (a) The executive head of the Department of Public Safety shall be the
22 Secretary of the Department of Public Safety.

23 (b) The secretary shall be appointed by the Governor, subject to
24 confirmation by the Senate, and shall serve at the pleasure of the Governor.

25 (c) Each division of the department shall be under the direction,
26 control, and supervision of the secretary.

27 (d) The secretary may delegate his or her functions, powers, and
28 duties to various divisions or employees of the department as he or she shall
29 deem desirable and necessary for the effective and efficient operation of the
30 department.

31 (e) The secretary may, unless otherwise provided by law:

32 (1) Hire department personnel;

33 (2) Perform or assign duties assigned to the department; and

34 (3) Serve as the director, or the administrative or executive
35 head of any state entity under the administrative control of the department
36 if the secretary also meets all statutory requirements for the position.

1
2 25-43-1404. Division of Law Enforcement Standards and Training.

3 There is created within the Department of Public Safety the Division of
4 Law Enforcement Standards and Training.

5
6 SECTION 5651. Arkansas Code § 3-2-303(a) and (b), concerning the
7 authority of the Department of Arkansas State Police, are amended to read as
8 follows:

9 (a) In addition to the duties otherwise prescribed by law upon the
10 ~~Department~~ Division of Arkansas State Police, it shall be the duty of the
11 ~~department~~ division to assist in enforcing all of the laws of the State of
12 Arkansas against the unlawful manufacture or sale of intoxicating liquors.

13 (b)(1) The Director of the ~~Department~~ Division of Arkansas State
14 Police, the Deputy Director of the ~~Department~~ Division of Arkansas State
15 Police, captains, lieutenants, rangers, and other employees of the director
16 shall perform such duties as may be prescribed by the director with respect
17 to the enforcement of the laws, and they shall have authority to take
18 affidavits and to swear the persons signing the affidavits with respect to
19 the violation of any law.

20 (2) The false swearing or making of the affidavits shall be
21 deemed and punished as perjury.

22
23 SECTION 5652. Arkansas Code § 5-64-707 is amended to read as follows:
24 5-64-707. Admissibility of drug analysis – Cross-examination.

25 (a) In any criminal prosecution for an alleged violation of this
26 chapter, a record or report of any relevant drug analysis made by the State
27 Crime Laboratory shall be received as competent evidence as to a matter
28 contained in the record or report in this section in any preliminary hearing
29 when attested to by the ~~Executive~~ Director of the State Crime Laboratory or
30 his or her assistant or deputy.

31 (b)(1) Nothing in this section abrogates a defendant's right of cross-
32 examination.

33 (2) If the defendant desires to cross-examine the ~~executive~~
34 director or the appropriate assistant or deputy, the defendant may compel the
35 ~~executive~~ director or his or her appropriate assistant or deputy to attend
36 court by the issuance of a proper subpoena.

1 (3) If the defendant compels the ~~executive~~ director or his or
2 her appropriate assistant or deputy to attend court by the issuance of a
3 proper subpoena:

4 (A) The record or report is only admissible through the
5 ~~executive~~ director or the appropriate assistant or deputy; and

6 (B) The ~~executive~~ director or the appropriate assistant or
7 deputy is subject to cross-examination by the defendant or his or her
8 counsel.

9
10 SECTION 5653. Arkansas Code § 5-73-302(a), concerning the authority of
11 the Director the Department of Arkansas State Police to issue a license to
12 carry a concealed handgun, is amended to read as follows:

13 (a) The Director of the ~~Department~~ Division of Arkansas State Police
14 may issue a license to carry a concealed handgun to a person qualified as
15 provided in this subchapter.

16
17 SECTION 5654. Arkansas Code § 5-73-308(a)(1)(A), concerning the
18 authority of the Director the Department of Arkansas State Police to issue or
19 deny a license to carry a concealed handgun, is amended to read as follows:

20 (a)(1)(A) The Director of the ~~Department~~ Division of Arkansas State
21 Police may deny a license if within the preceding five (5) years the
22 applicant has been found guilty of one (1) or more crimes of violence
23 constituting a misdemeanor or for the offense of carrying a weapon.

24
25 SECTION 5655. The introductory language of Arkansas Code § 5-73-309,
26 concerning the requirements for a license to carry a concealed handgun, is
27 amended to read as follows:

28 The Director of the ~~Department~~ Division of Arkansas State Police shall
29 issue a license to carry a concealed handgun if the applicant:

30
31 SECTION 5656. Arkansas Code § 5-73-309(6), concerning the requirements
32 for a license to carry a concealed handgun, is amended to read as follows:

33 (6) Is not subject to any federal, state, or local law that
34 makes it unlawful to receive, possess, or transport any firearm, and has had
35 his or her background check successfully completed through the ~~Department~~
36 Division of Arkansas State Police and the Federal Bureau of Investigation's

1 National Instant Criminal Background Check System;

2
3 SECTION 5657. The introductory language of Arkansas Code § 5-73-310,
4 concerning the application form for a license to carry a concealed handgun,
5 is amended to read as follows:

6 The application for a license to carry a concealed handgun shall be
7 completed, under oath, on a form promulgated by the Director of the
8 ~~Department~~ Division of Arkansas State Police and shall include only:

9
10 SECTION 5658. The introductory language of Arkansas Code § 5-73-
11 311(a), concerning the application procedure for a license to carry a
12 concealed handgun, is amended to read as follows:

13 (a) The applicant for a license to carry a concealed handgun shall
14 submit the following to the ~~Department~~ Division of Arkansas State Police:

15
16 SECTION 5659. Arkansas Code § 5-73-311(a)(3)(B), concerning the
17 application procedure for a license to carry a concealed handgun, is amended
18 to read as follows:

19 (B) In the event a legible set of fingerprints, as
20 determined by the ~~department~~ division and the Federal Bureau of
21 Investigation, cannot be obtained after a minimum of two (2) attempts, the
22 Director of the ~~Department~~ Division of Arkansas State Police shall determine
23 eligibility in accordance with criteria that the ~~department~~ division shall
24 establish by promulgating rules.

25
26 SECTION 5660. Arkansas Code § 5-73-311(a)(4)(A), concerning the
27 application procedure for a license to carry a concealed handgun, is amended
28 to read as follows:

29 (4)(A) A waiver authorizing the ~~department~~ division access to
30 any medical, criminal, or other records concerning the applicant and
31 permitting access to all of the applicant's criminal records.

32
33 SECTION 5661. Arkansas Code § 5-73-311(a)(4)(C), concerning the
34 application procedure for a license to carry a concealed handgun, is amended
35 to read as follows:

36 (C) The ~~department~~ division shall maintain the

1 confidentiality of the medical, criminal, or other records; and

2
3 SECTION 5662. Arkansas Code § 5-73-311(b)(2), concerning the
4 application procedure for a license to carry a concealed handgun, is amended
5 to read as follows:

6 (2)(A) The ~~department~~ division shall forward a notice of the
7 applicant's application to the sheriff of the applicant's county of residence
8 and, if applicable, the police chief of the applicant's municipality of
9 residence.

10 (B)(i) The sheriff of the applicant's county of residence
11 and, if applicable, the police chief of the applicant's municipality of
12 residence may participate, at his or her discretion, in the process by
13 submitting a voluntary report to the ~~department~~ division containing any
14 readily discoverable information that he or she feels may be pertinent to the
15 licensing of any applicant.

16 (ii) The reporting under subdivision (b)(2)(B)(i) of
17 this section shall be made within thirty (30) days after the date the notice
18 of the application was sent by the ~~department~~ division.

19
20 SECTION 5663. Arkansas Code § 5-73-312(a)(2)(A), concerning the
21 revocation of a license to carry a concealed handgun, is amended to read as
22 follows:

23 (2)(A) Any law enforcement officer making an arrest of a
24 licensee for a violation of this subchapter or any other statutory violation
25 that requires revocation of a license to carry a concealed handgun shall
26 confiscate the license and forward it to the Director of the ~~Department~~
27 Division of Arkansas State Police.

28
29 SECTION 5664. Arkansas Code § 5-73-312(b), concerning the revocation
30 of a license to carry a concealed handgun, is amended to read as follows:

31 (b) When the ~~Department~~ Division of Arkansas State Police receives
32 notification from any law enforcement agency or court that a licensee has
33 been found guilty or has pleaded guilty or nolo contendere to any crime
34 involving the use of a weapon, the license issued under this subchapter is
35 immediately revoked.

36

1 SECTION 5665. Arkansas Code § 5-73-314(a), concerning a license to
2 carry a concealed handgun which has been lost, destroyed, or duplicated, is
3 amended to read as follows:

4 (a) Within thirty (30) days after the changing of a permanent address,
5 or within thirty (30) days after having a license to carry a concealed
6 handgun lost, the licensee shall notify the Director of the ~~Department~~
7 Division of Arkansas State Police in writing of the change or loss.

8
9 SECTION 5666. Arkansas Code § 5-73-314(b)(1) and (2), concerning a
10 license to carry a concealed handgun which has been lost, destroyed, or
11 duplicated, are amended to read as follows:

12 (1) Paying the ~~Department~~ Division of Arkansas State Police a
13 fee established by the director under the Arkansas Administrative Procedure
14 Act, § 25-15-201 et seq.; and

15 (2) Furnishing a notarized statement to the ~~department~~ division
16 that the license to carry a concealed handgun has been lost or destroyed or
17 that a duplicate is requested.

18
19 SECTION 5667. Arkansas Code § 5-73-317 is amended to read as follows:
20 5-73-317. Rules and regulations.

21 The Director of the ~~Department~~ Division of Arkansas State Police may
22 promulgate rules and regulations to permit the efficient administration of
23 this subchapter.

24
25 SECTION 5668. Arkansas Code § 5-73-320(a), concerning a handgun
26 license for certain members of the Arkansas National Guard and military
27 personnel, is amended to read as follows:

28 (a) The ~~Department~~ Division of Arkansas State Police may issue a
29 license under this subchapter to a person who:

30 (1) Is currently serving as an active duty member of, or has
31 recently been honorably discharged from, the United States Armed Forces, the
32 National Guard, or a reserve component of the United States Armed Forces;

33 (2) Submits the following documents:

34 (A) A completed concealed handgun license application as
35 prescribed by the ~~department~~ division;

36 (B) A form specified by the Director of the ~~Department~~

1 Division of Arkansas State Police reflecting the fingerprints of the
2 applicant;

3 (C) A properly completed and dated certificate from a
4 concealed handgun carry training instructor who is registered with the
5 ~~department~~ division;

6 (D) A letter dated and personally signed by a commanding
7 officer or his or her designee stating that the applicant is of good
8 character and sound judgment;

9 (E) A form, as designated by the ~~department~~ division,
10 showing that the applicant has met the military qualification requirements
11 for issuance and operation of a handgun within one (1) year of the
12 application date;

13 (F) A copy of the face or photograph side of a current
14 uniformed services of the United States identification card, if the applicant
15 is a member of the United States Armed Forces; and

16 (G) An electronic passport-style photo of the applicant,
17 if the applicant does not hold an Arkansas driver's license or identification
18 card; and

19 (3) Submits any required fees.
20

21 SECTION 5669. Arkansas Code § 5-73-322(g)(1), concerning concealed
22 handguns in a university, college, or community college building, is amended
23 to read as follows:

24 (g)(1) A licensee who intends to carry a concealed handgun in the
25 buildings and on the grounds of a public university, public college, or
26 community college is required to complete a training course approved by the
27 Director of the ~~Department~~ Division of Arkansas State Police.
28

29 SECTION 5670. Arkansas Code § 5-73-322(g)(2)(B), concerning concealed
30 handguns in a university, college, or community college building, is amended
31 to read as follows:

32 (B) The Director of the ~~Department~~ Division of Arkansas
33 State Police may waive up to four (4) hours of training required under this
34 subsection for a licensee based on the licensee's prior training attended
35 within ten (10) years of applying for the endorsement provided for under
36 subdivision (g)(3) of this section on appropriate topics.

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SECTION 5671. Arkansas Code § 5-73-322(g)(3), concerning concealed handguns in a university, college, or community college building, is amended to read as follows:

(3) A licensee who completes a training course under this subsection shall be given a concealed carry endorsement by the ~~Department~~ Division of Arkansas State Police on his or her license to carry a concealed handgun that the person is permitted to possess and carry a concealed handgun in the buildings and on the grounds of a public university, public college, or community college.

SECTION 5672. Arkansas Code § 5-73-322(i), concerning concealed handguns in a university, college, or community college building, is amended to read as follows:

(i) The ~~department~~ division shall maintain a list of licensees who have successfully completed a training course under subsection (g) of this section.

SECTION 5673. Arkansas Code § 6-10-121(b), concerning tornado safety drills, is amended to read as follows:

(b) The Director of the ~~Arkansas Department~~ Division of Emergency Management shall require all public schools to conduct tornado safety drills not less than three (3) times per year in the months of September, January, and February.

SECTION 5674. Arkansas Code § 12-8-101(a), concerning the creation of the Department of Arkansas State Police, is amended to read as follows:

(a) There is created the ~~Department~~ Division of Arkansas State Police for the purposes of enforcing the motor vehicle laws, traffic laws, and other state laws relating to protecting and properly maintaining the state highway system of the State of Arkansas and to render more effective the apprehension of criminals and the enforcement of criminal law.

SECTION 5675. Arkansas Code § 12-8-103(a)(3), concerning the powers, duties, and restrictions of the Arkansas State Police Commission, is amended to read as follows:

1 (3) Review each application for employment presented to it by
2 the Director of the ~~Department~~ Division of Arkansas State Police for
3 certification to the eligibility list.
4

5 SECTION 5676. Arkansas Code § 12-8-103(c), concerning the powers,
6 duties, and restrictions of the Arkansas State Police Commission, is amended
7 to read as follows:

8 (c) The members of the commission are granted disciplinary authority
9 equal to that of supervisory and administrative personnel of the ~~Department~~
10 Division of Arkansas State Police with respect to violations of rules and
11 regulations committed by a ~~department~~ division employee in the presence of a
12 commissioner.
13

14 SECTION 5677. Arkansas Code § 12-8-104 is amended to read as follows:

15 12-8-104. Director.

16 (a)(1)(A) After conferring with the members of the Arkansas State
17 Police Commission, the Governor shall appoint a Director of the ~~Department~~
18 Division of Arkansas State Police who shall be the executive and
19 administrative head of the ~~Department~~ Division of Arkansas State Police and
20 shall receive a salary as fixed by law.

21 (B) The Director of the ~~Department~~ Division of Arkansas
22 State Police shall serve at the pleasure of the Governor.

23 (C) The Director of the Division of Arkansas State Police
24 shall report to the Secretary of the Department of Public Safety.

25 (2) The Director of the ~~Department~~ Division of Arkansas State
26 Police shall be of good moral character and a resident and a qualified
27 elector of the State of Arkansas.

28 (3) In addition to all other qualifications contained in this
29 section, the Director of the ~~Department~~ Division of Arkansas State Police, at
30 the time of appointment to the position of Director of the ~~Department~~
31 Division of Arkansas State Police, shall either:

32 (A) Be a college graduate with at least a bachelor's
33 degree in criminology, business administration, or a related field;

34 (B) Have graduated from a standard high school or
35 vocational school and have eight (8) years' previous experience in law
36 enforcement or a related field with considerable supervisory and

1 administrative experience; or

2 (C) Have at least ten (10) years' experience in law
3 enforcement.

4 (b) The Director of the ~~Department~~ Division of Arkansas State Police
5 shall determine the number of other officers and patrol personnel to be
6 employed by the ~~Department~~ Division of Arkansas State Police, and they shall
7 be paid salaries according to rank, not exceeding the salaries provided.

8 (c) The Director of the ~~Department~~ Division of Arkansas State Police
9 shall promulgate such rules as are necessary for the efficient operation of
10 the ~~Department~~ Division of Arkansas State Police and for the enforcement of
11 such duties as are prescribed in this chapter.

12 (d) The Director of the ~~Department~~ Division of Arkansas State Police
13 shall keep the books and records of the ~~Department~~ Division of Arkansas State
14 Police, which shall be audited as the books and accounts of other state
15 departments.

16 (e) An annual report to the ~~Governor~~ secretary and a biannual report
17 to the General Assembly showing the activities, number of arrests, amounts
18 collected by the ~~Department~~ Division of Arkansas State Police, and
19 disposition of all cases shall be made by the Director of the ~~Department~~
20 Division of Arkansas State Police.

21 (f)(1) The Director of the ~~Department~~ Division of Arkansas State
22 Police shall have supervision and control for the purpose of discipline and
23 proper management of all the members and employees of the ~~Department~~ Division
24 of Arkansas State Police.

25 (2)(A) The Director of the ~~Department~~ Division of Arkansas State
26 Police may designate that some or all employees of the ~~Department~~ Division of
27 Arkansas State Police be trained pursuant to a memorandum of understanding
28 between the State of Arkansas and the United States Department of Justice or
29 the United States Department of Homeland Security concerning the enforcement
30 of federal immigration laws on federal and interstate highways in the State
31 of Arkansas.

32 (B) The amount spent for training employees of the
33 ~~Department~~ Division of Arkansas State Police under the memorandum of
34 understanding between the State of Arkansas and the United States Department
35 of Justice or the United States Department of Homeland Security shall be paid
36 in accordance with the provisions of § 12-8-118.

1 (3)(A) Upon request of the Director of State Highways and
2 Transportation, the Director of the ~~Department~~ Division of Arkansas State
3 Police may designate certified law enforcement officers from the Arkansas
4 Highway Police Division of the Arkansas Department of Transportation to be
5 trained under the terms of the memorandum of understanding described in
6 subdivision (f)(2) of this section.

7 (B) The amount spent for training certified law
8 enforcement officers from the Arkansas Highway Police Division of the
9 Arkansas Department of Transportation shall be paid by the Arkansas
10 Department of Transportation.

11 (g) The Director of the ~~Department~~ Division of Arkansas State Police
12 may establish such divisions within the ranks of the ~~Department~~ Division of
13 Arkansas State Police as he or she may deem necessary and proper.

14 (h) Whenever in the Director of the ~~Department~~ Division of Arkansas
15 State Police's discretion the action is necessary for the efficient operation
16 of the ~~Department~~ Division of Arkansas State Police, the Director of the
17 ~~Department~~ Division of Arkansas State Police may:

18 (1) Transfer, assign, and reassign from one division to another
19 division any member of the ~~Department~~ Division of Arkansas State Police or
20 other employee of the ~~Department~~ Division of Arkansas State Police; or

21 (2)(A) Subject to the approval of the commission, promote or
22 demote in rank any member of the ~~Department~~ Division of Arkansas State
23 Police.

24 (B) However, any demotion pursuant to subdivision
25 (h)(2)(A) of this section shall be for nondisciplinary reasons.

26 (i) Due to the exacting and special duties of the Director of the
27 ~~Department~~ Division of Arkansas State Police, he or she may draw an expense
28 allowance in an amount not to exceed six hundred dollars (\$600) per month.

29 (j)(1) Subject to the provisions of subsection (f) of this section,
30 the Director of the ~~Department~~ Division of Arkansas State Police may
31 negotiate the terms of a memorandum of understanding between the State of
32 Arkansas and the United States Department of Justice or the United States
33 Department of Homeland Security concerning the enforcement of federal
34 immigration laws.

35 (2)(A) The memorandum of understanding described in subdivision
36 (j)(1) of this section must be signed on behalf of the State of Arkansas by

1 the Director of the ~~Department~~ Division of Arkansas State Police, the
2 Governor, and the Director of the Division of Law Enforcement Standards and
3 Training.

4 (B) Prior to the signing provided for by subdivision
5 (j)(2)(A) of this section, the memorandum of understanding shall be reviewed
6 by the Legislative Council.

7 (k) The Director of the ~~Department~~ Division of Arkansas State Police
8 shall implement or assist other entities to develop and implement a public
9 service campaign concerning racial profiling and may utilize brochures,
10 flyers, or public service announcements.

11
12 SECTION 5678. Arkansas Code § 12-8-105 is amended to read as follows:

13 12-8-105. Officers and members – Oath.

14 (a) Before entering upon their duties, all members and officers of the
15 ~~Department~~ Division of Arkansas State Police shall take the oath as now
16 provided by law for public officials.

17 (b) The Director of the ~~Department~~ Division of Arkansas State Police
18 shall take the additional oath that he or she will not be either directly or
19 indirectly interested in any purchase made by or for the ~~department~~ division.

20 (c) Any violation of oath shall constitute perjury and upon conviction
21 shall be punished accordingly.

22 (d) The oath provided for in this section shall be filed in duplicate,
23 the original filed with the ~~department~~ division and a copy with the Secretary
24 of the Arkansas State Police Commission.

25
26 SECTION 5679. The introductory language of Arkansas Code § 12-8-
27 106(a)(1), concerning the duties, powers, and restrictions of the Department
28 of Arkansas State Police, is amended to read as follows:

29 (a)(1) It shall be the duty of the ~~Department~~ Division of Arkansas
30 State Police to:

31
32 SECTION 5680. Arkansas Code § 12-8-106(a)(2), concerning the duties,
33 powers, and restrictions of the Department of Arkansas State Police, is
34 amended to read as follows:

35 (2) The Director of the ~~Department~~ Division of Arkansas State
36 Police may promulgate necessary rules and regulations to carry out the

1 purpose and intent of subdivision (a)(1)(B) of this section.

2
3 SECTION 5681. Arkansas Code § 12-8-106(b) and (c), concerning the
4 duties, powers, and restrictions of the Department of Arkansas State Police,
5 are amended to read as follows:

6 (b) The ~~department~~ Division of Arkansas State Police shall be
7 conservators of the peace and as such shall have the powers possessed by
8 police officers in cities and county sheriffs in counties, except that the
9 department may exercise such powers anywhere in this state.

10 (c) The ~~department~~ Division of Arkansas State Police shall have the
11 authority to establish a Crimes Against Children Division, either through
12 transfer or by contract, to conduct child abuse investigations, to administer
13 the Child Abuse Hotline, and, when consistent with regulations promulgated by
14 the department, to provide training and technical assistance to local law
15 enforcement in conducting child abuse investigations.

16
17 SECTION 5682. Arkansas Code § 12-8-106(e)-(g), concerning the duties,
18 powers, and restrictions of the Department of Arkansas State Police, are
19 amended to read as follows:

20 (e) However, this chapter shall not be construed so as to take away
21 any authority of the regularly constituted peace officers in the state, but
22 the ~~department~~ Division of Arkansas State Police shall cooperate with them in
23 the enforcement of the criminal laws of the state and assist such officers
24 either in the enforcement of the law or apprehension of criminals.

25 (f) Nothing in this chapter shall be construed as to authorize any
26 officer of the ~~department~~ Division of Arkansas State Police to serve writs
27 unless they are specifically directed to the ~~department~~ Division of Arkansas
28 State Police, or an officer thereof, by the issuing authority.

29 (g) No officer or member of the ~~department~~ Division of Arkansas State
30 Police shall ever be used in performing police duties on private property in
31 connection with any strike, lockout, or other industrial disturbance.

32
33 SECTION 5683. Arkansas Code § 12-8-107 is amended to read as follows:
34 12-8-107. Arrests and detentions.

35 (a) If any officer of the ~~Department~~ Division of Arkansas State Police
36 delivers an arrested person to a county jail for detention, it shall be the

1 duty of the jailer to receive the prisoner.

2 (b) The ~~department~~ division officer may notify the county sheriff or
3 prosecuting officer of the county in which the crime was committed of the
4 arrest and detention of the prisoner and make such lawful disposition of the
5 prisoner as the ~~department~~ division officer is directed to do by the county
6 sheriff or prosecuting officer.

7

8 SECTION 5684. Arkansas Code § 12-8-108 is amended to read as follows:
9 12-8-108. Security of Governor, capitol building, etc.

10 (a) The ~~Department~~ Division of Arkansas State Police shall be
11 responsible for the safety and security of the:

- 12 (1) Governor and his or her family;
13 (2) Lieutenant Governor and his or her family;
14 (3) Governor's Mansion and mansion grounds; and
15 (4) State Capitol Building and grounds.

16 (b) The ~~department~~ division is authorized to assign officers of the
17 ~~department~~ division in such numbers and to such locations as is necessary to
18 carry out the responsibility imposed on the ~~department~~ division by this
19 section.

20 (c) Data, records, surveillance footage, security procedures,
21 emergency plans, and other information compiled or possessed by the
22 ~~department~~ division concerning the Governor's Mansion and mansion grounds are
23 confidential and not subject to disclosure under the Freedom of Information
24 Act of 1967, § 25-19-101 et seq.

25

26 SECTION 5685. Arkansas Code § 12-8-109 is amended to read as follows:
27 12-8-109. Police protection for statewide functions.

28 (a) The ~~Department~~ Division of Arkansas State Police shall provide
29 police protection, commensurate with the available personnel and resources of
30 the ~~department~~ division which are not required for other activities,
31 benefiting any statewide function or similar activities sponsored or
32 conducted by:

- 33 (1) A state agency, board, or commission;
34 (2) A state-supported college or university;
35 (3) A private nonprofit association or organization on public
36 property; or

1 (4) Statewide athletic events under the auspices of the public
2 schools.

3 (b) For the purposes of this section, the statewide functions for
4 which the ~~department~~ division may provide police protection at the Arkansas
5 State Fair and Livestock Showgrounds shall include the annual Arkansas State
6 Fair and Livestock Show held at the showgrounds, and statewide athletic
7 contests in which the public schools of this state participate which are held
8 at the showgrounds.

9

10 SECTION 5686. Arkansas Code § 12-8-110 is amended to read as follows:

11 12-8-110. Deputizing citizens in emergency.

12 Any ~~Department~~ Division of Arkansas State Police officer shall have the
13 authority in case of emergency to call upon and deputize any reputable
14 citizen of the state for assistance whenever it is deemed necessary for the
15 proper enforcement of the law.

16

17 SECTION 5687. Arkansas Code § 12-8-111 is amended to read as follows:

18 12-8-111. Cooperation among agencies.

19 (a) It shall be the duty of the ~~Department~~ Division of Arkansas State
20 Police and its officers to cooperate with other law enforcement agencies of
21 this state in the investigation and apprehension of criminals and the
22 prevention of crime within the state and to use every means at their disposal
23 in disseminating information that will more effectively expedite the
24 detection of crime and the apprehension and conviction of criminals and
25 promote the highest possible degree of efficiency in the enforcement of the
26 criminal and traffic laws of the state.

27 (b) The law enforcement agencies of the state shall furnish to the
28 ~~department~~ division such information as they may have or shall hereafter
29 acquire upon request of the Director of the ~~Department~~ Division of Arkansas
30 State Police relating to crime and criminals and otherwise cooperate with the
31 ~~department~~ division in the enforcement of the criminal and traffic laws of
32 this state.

33

34 SECTION 5688. Arkansas Code § 12-8-112 is amended to read as follows:

35 12-8-112. Headquarters – Bureau of Identification and Information.

36 (a) The ~~Department~~ Division of Arkansas State Police shall maintain

1 headquarters and an Identification Bureau which shall be located at the State
2 Capitol or elsewhere in ~~the City of Little Rock~~ Pulaski County.

3 (b) The ~~department~~ division may establish district headquarters in
4 other parts of the state if it is found to be necessary for the better
5 enforcement of the provisions of this chapter. The Director of the ~~Department~~
6 Division of Arkansas State Police shall have the authority to assign the
7 personnel for the district headquarters when designated.

8
9 SECTION 5689. Arkansas Code § 12-8-113 is amended to read as follows:

10 12-8-113. Drug Abuse Enforcement Unit – Hot line.

11 (a) The Director of the ~~Department~~ Division of Arkansas State Police
12 is directed to establish a Drug Abuse Enforcement Unit and assign sufficient
13 supervisory, clerical, and enforcement personnel to carry out the duties and
14 responsibilities of that unit as defined by the Uniform Controlled Substances
15 Act, § 5-64-101 et seq.

16 (b)(1) The unit shall operate a “drug abuse hot line” to allow
17 citizens to use a toll-free in-watts telephone line to report to the
18 ~~Department~~ Division of Arkansas State Police information regarding possible
19 violations of the Uniform Controlled Substances Act, § 5-64-101 et seq., and
20 other provisions of Arkansas law relating to unlawful use of drugs.

21 (2) The ~~department~~ division shall encourage citizen involvement
22 in combating drug-related crimes by publicizing the existence of the drug
23 abuse hot line.

24
25 SECTION 5690. Arkansas Code § 12-8-114(a) and (b), concerning legal
26 counsel and advisors for the Arkansas State Police Commission and the
27 Department of Arkansas State Police, are amended to read as follows:

28 (a) The Attorney General shall be the legal representative and advisor
29 of the Arkansas State Police Commission, the ~~Department~~ Division of Arkansas
30 State Police, and the Director of the ~~Department~~ Division of Arkansas State
31 Police.

32 (b) However, the director, with the approval of the Attorney General
33 and Governor, may employ other counsel when in the Attorney General’s and
34 Governor’s judgment it is necessary for the proper enforcement of the
35 provisions of this chapter and the efficient operation of the ~~department~~
36 division.

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SECTION 5691. Arkansas Code § 12-8-115 is amended to read as follows:
12-8-115. Physicians and surgeons.

(a) The Director of the ~~Department~~ Division of Arkansas State Police may designate one (1) physician and surgeon in each district of the state who shall be the physician and surgeon of the ~~Department~~ Division of Arkansas State Police within and for the district.

(b)(1) The physician and surgeon shall conduct the physical examinations required by this chapter and give medical treatment to any member or officer of the ~~department~~ division for injuries received while in the performance of official duty.

(2) The physician and surgeon shall be given honorary commissions by the director and shall serve without pay.

SECTION 5692. Arkansas Code § 12-8-116 is amended to read as follows:
12-8-116. Motor vehicles.

(a)(1) All automobiles, motorcycles, or other vehicles of any nature owned, used, and operated by the ~~Department~~ Division of Arkansas State Police shall be exempt from the payment of any licenses, fees, and charges required by the laws of this state for the operation of the vehicles upon the public highways of this state.

(2) The Director of the ~~Department~~ Division of Arkansas State Police and the ~~Director~~ Secretary of the Department of Finance and Administration shall adopt identification tags or other insignia which shall be attached to the vehicles by the officers, members, and employees of the ~~Department of Arkansas State Police~~ division, for which tag or insignia no charge shall be made or collected.

(b) The ~~Department of Arkansas State Police~~ division is granted authority to purchase used vehicles for use in confidential assignments and drug investigations.

SECTION 5693. Arkansas Code § 12-8-118 is amended to read as follows:
12-8-118. Payment of salaries and expenses.

The salaries and expenses provided for in this chapter shall be paid by warrant upon a voucher properly drawn by the Director of the ~~Department~~ Division of Arkansas State Police and paid out of any funds now available for

1 the payment of salaries and expenses of the ~~Department~~ Division of Arkansas
2 State Police from the ~~Department~~ Division of Arkansas State Police Fund or
3 any other fund as provided by law.

4
5 SECTION 5694. Arkansas Code § 12-8-119(a), concerning the police
6 training school, is amended to read as follows:

7 (a) The Director of the ~~Department~~ Division of Arkansas State Police
8 may establish, maintain, and conduct a police training school and may admit
9 to the training school police officers and judicial officers of the various
10 political subdivisions of the State of Arkansas.

11
12 SECTION 5695. Arkansas Code § 12-8-120 is amended to read as follows:
13 12-8-120. Background investigations.

14 (a) The ~~Department~~ Division of Arkansas State Police is authorized to
15 charge a fee, not to exceed twenty dollars (\$20.00), for each background
16 investigation requested of and conducted by the ~~department~~ division.

17 (b) The background investigation fee shall be collected by the
18 ~~department~~ division and deposited into the State Treasury as special revenue
19 to the credit of the ~~Department~~ Division of Arkansas State Police Fund.

20
21 SECTION 5696. Arkansas Code § 12-8-121 is amended to read as follows:
22 12-8-121. Use of state uniform, patch, or logo prohibited.

23 (a) It shall be prohibited for any law enforcement agency, private
24 security firm, corporation, partnership, or individual to wear a uniform in
25 the same design and specific color scheme as the ~~Department~~ Division of
26 Arkansas State Police.

27 (b) No law enforcement agency, private security firm, corporation,
28 partnership, or individual may use the Arkansas State Police uniform or
29 patch, nor may the Arkansas State Police logo or the terms "Arkansas State
30 Police", "Arkansas State Trooper", or "Arkansas State Troopers" be used or
31 otherwise displayed for the endorsement of any product, business, or purpose
32 without the express written permission of the Director of the ~~Department~~
33 Division of Arkansas State Police.

34 (c) Nothing in this section shall prohibit uniforms or commercial
35 concerns from reproducing these items for ~~department~~ division use, nor the
36 public display of the uniform, patch, or logo when it relates to official

1 governmental business.

2

3 SECTION 5697. Arkansas Code § 12-8-125(a), concerning the Small
4 Municipality Law Enforcement Vehicle Grant Program, is amended to read as
5 follows:

6 (a) There is created the "Small Municipality Law Enforcement Vehicle
7 Grant Program", to be administered by the ~~Department~~ Division of Arkansas
8 State Police with funding from the General Improvement Fund or its successor
9 fund or fund accounts.

10

11 SECTION 5698. Arkansas Code § 12-8-125(c)(1), concerning the Small
12 Municipality Law Enforcement Vehicle Grant Program, is amended to read as
13 follows:

14 (c)(1) The ~~Department of Arkansas State Police~~ division shall
15 promulgate rules necessary for the implementation of the program.

16

17 SECTION 5699. Arkansas Code § 12-8-125(e), concerning the Small
18 Municipality Law Enforcement Vehicle Grant Program, is amended to read as
19 follows:

20 (e) If the ~~Department~~ Division of Arkansas State Police awards a grant
21 to a city of the second class or incorporated town under this section, the
22 ~~Department of Arkansas State Police~~ division shall pay the grant funds for
23 the purchase of a used vehicle directly to the Marketing and Redistribution
24 Section within the Office of State Procurement ~~of the Department of Finance~~
25 ~~and Administration~~.

26

27 SECTION 5700. Arkansas Code § 12-8-201(a)-(c), concerning the
28 selection of the members of the police force, are amended to read as follows:

29 (a) The Director of the ~~Department~~ Division of Arkansas State Police
30 shall appoint all members of the police force, subject to approval of the
31 Arkansas State Police Commission, and the director shall select the clerical
32 and stenographic force of the ~~Department~~ Division of Arkansas State Police.

33 (b) The commission shall promulgate rules and regulations setting
34 forth the minimum qualifications for employment as a ~~department~~ division
35 police officer and prescribing the manner of examination of applicants for
36 the position.

1 (c) The director shall receive all applications for positions as
2 ~~department~~ division officers and submit them to the commission for
3 examination as to the physical fitness and mental qualifications of the
4 applicants and for such other examinations as provided for by the
5 commission's rules and regulations.

6
7 SECTION 5701. Arkansas Code § 12-8-201(e)(2), concerning the selection
8 of the members of the police force, is amended to read as follows:

9 (2) From this list, the director shall make the final selection
10 for the appointments, and any vacancy occurring in the ~~department~~ division
11 shall be filled from this list.

12
13 SECTION 5702. Arkansas Code § 12-8-203(a), concerning the probationary
14 period of a parole officer, is amended to read as follows:

15 (a)(1) Each person who is selected as a police officer of the
16 ~~Department~~ Division of Arkansas State Police shall be a probationer for a
17 period of eighteen (18) months from his or her date of hire.

18 (2) A probationer may be discharged by the Director of the
19 ~~Department~~ Division of Arkansas State Police with the approval of the
20 Arkansas State Police Commission with or without cause.

21
22 SECTION 5703. Arkansas Code § 12-8-204 is amended to read as follows:
23 12-8-204. Tenure – Removal, suspension, or discharge.

24 (a) The members of the ~~Department~~ Division of Arkansas State Police
25 shall hold their offices until and unless removed for cause.

26 (b) Should the Director of the ~~Department~~ Division of Arkansas State
27 Police deem it necessary to remove, suspend, discharge, demote, or transfer
28 for disciplinary reasons any ~~department~~ division officer, the director shall
29 do so by written notice.

30 (c)(1) Any ~~department~~ division officer so removed, suspended,
31 discharged, demoted, or transferred shall have the right of appeal to the
32 Arkansas State Police Commission, provided that notice of the appeal shall be
33 lodged with the commission within ten (10) days after notice to the officer
34 of his or her discharge, removal, suspension, demotion, or disciplinary
35 transfer.

36 (2) When so filed, the appeal shall be heard and determined by

1 the commission within a reasonable time from the date the appeal is filed
2 with the commission.

3 (d)(1) Provided the appeal is perfected within thirty (30) days from
4 the date of the final order made by the commission, an appeal may be taken to
5 the Pulaski County Circuit Court from any order of the commission
6 discharging, removing, suspending, demoting, or transferring for disciplinary
7 reasons any member of the ~~department~~ division force.

8 (2) The appeal shall be heard by the court without the
9 introduction of any further testimony.

10

11 SECTION 5704. Arkansas Code § 12-8-213 is amended to read as follows:
12 12-8-213. Equipment and uniforms.

13 (a) Such motorcycles, automobiles, and other vehicles, equipment, and
14 supplies as may be necessary for the proper and efficient operation of the
15 ~~Department~~ Division of Arkansas State Police and as may be necessary for the
16 proper enforcement of this chapter shall be furnished to the officers and
17 patrol personnel by the ~~department~~ division.

18 (b) The officers and patrol personnel shall wear and display upon
19 their person a metal badge or other insignia as the ~~director of the~~
20 ~~department~~ Director of the Division of Arkansas State Police shall require,
21 bearing the words "Arkansas State Police".

22 (c) All such patrol personnel and officers shall wear such uniforms at
23 such times and places as shall be designated and required by the ~~Director of~~
24 ~~the Department of Arkansas State Police~~ director.

25

26 SECTION 5705. Arkansas Code § 12-8-215(a) and (b), concerning
27 additional salary payments by the Department of Arkansas State Police, is
28 amended to read as follows:

29 (a) In the event that sufficient revenues in the judgment of the
30 Director of the ~~Department~~ Division of Arkansas State Police exist, the
31 ~~Department~~ Division of Arkansas State Police is authorized to make additional
32 salary payments from such funds to those employees who have attained law
33 enforcement certification above the basic certificate level, as defined by
34 the Arkansas Commission on Law Enforcement Standards and Training.

35 (b) It is the intent of this section that such payment shall be
36 optional, at the discretion of the director, dependent on sufficient

1 revenues, and shall not be implemented using funds specifically set aside for
2 other programs within the ~~department~~ division.

3
4 SECTION 5706. Arkansas Code § 12-8-215(c)(2)(A), concerning additional
5 salary payments by the Department of Arkansas State Police, is amended to
6 read as follows:

7 (A) Director of the ~~Department~~ Division of Arkansas State
8 Police;

9
10 SECTION 5707. Arkansas Code § 12-8-301 is amended to read as follows:
11 12-8-301. Title.

12 This subchapter shall be known and may be cited as the "~~Department~~
13 Division of Arkansas State Police Communications Equipment Leasing Act".

14
15 SECTION 5708. Arkansas Code § 12-8-303(1), concerning the definition
16 of "acquire" under the Department of Arkansas State Police Communications
17 Equipment Leasing Act, is amended to read as follows:

18 (1) "Acquire" means to acquire by lease, lease-purchase, or
19 otherwise, construct, repair, alter, install, restore, or place on any land
20 or in any building or motor vehicle any communications equipment by
21 negotiation or bidding upon such terms and conditions as are determined by
22 the Arkansas State Police Commission to be in the best interests of the
23 ~~Department~~ Division of Arkansas State Police and that will most effectively
24 serve the purposes of this subchapter;

25
26 SECTION 5709. Arkansas Code § 12-8-303(5) and (6), concerning the
27 definition of "department" and "director" under the Department of Arkansas
28 State Police Communications Equipment Leasing Act, are repealed.

29 (5) ~~"Department" means the Department of Arkansas State Police,~~
30 ~~created by § 12-8-101, and any successor agency;~~

31 (6) ~~"Director" means the Director of the Department of Arkansas~~
32 ~~State Police;~~

33
34 SECTION 5710. Arkansas Code § 12-8-303(8), concerning the definition
35 of "lease payments" under the Department of Arkansas State Police
36 Communications Equipment Leasing Act, is amended to read as follows:

1 (8) "Lease payments" means payments to be made by the ~~department~~
2 division from pledged revenues or other legally available sources to pay
3 costs of communications equipment; and
4

5 SECTION 5711. Arkansas Code § 12-8-305(a)(1)(A), concerning additional
6 powers of the Arkansas State Police Commission, is amended to read as
7 follows:

8 (1)(A) Acquire, construct, repair, renovate, alter, maintain,
9 and equip communications equipment for use by the ~~Department~~ Division of
10 Arkansas State Police.
11

12 SECTION 5712. Arkansas Code § 12-8-305(a)(2), concerning additional
13 powers of the Arkansas State Police Commission, is amended to read as
14 follows:

15 (2) Contract for the lease, lease-purchase, or purchase of the
16 communications equipment on such terms and conditions as are specified by
17 this subchapter and approved by the Director of the ~~Department~~ Division of
18 Arkansas State Police with the consent of the commission;
19

20 SECTION 5713. Arkansas Code § 12-8-305(a)(12), concerning additional
21 powers of the Arkansas State Police Commission, is amended to read as
22 follows:

23 (12) Arrange for the use of such communications equipment by any
24 federal, state, or local governmental agency or any other person, from time
25 to time, as any of such communications equipment is not needed by the
26 ~~department~~ division and collect fees and charges, as the commission
27 determines to be reasonable, in connection with the use of any communications
28 equipment by any other person;
29

30 SECTION 5714. Arkansas Code § 12-8-305(b), concerning additional
31 powers of the Arkansas State Police Commission, is amended to read as
32 follows:

33 (b) All the powers, purposes, and authorities set forth in subsection
34 (a) of this section, except those relating to the contracting for the lease,
35 purchase, or lease-purchase of the communications equipment, may be carried
36 out by the ~~department~~ division.

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SECTION 5715. Arkansas Code § 12-8-403(a)(1), concerning inquiry to determine abuse by the Director of the Department of Arkansas State Police is amended to read as follows:

(a)(1) Upon the request of the prosecuting attorney of any judicial district in which an affected municipality is located, the Director of the ~~Department~~ Division of Arkansas State Police is authorized to investigate and determine whether any municipality is abusing police power.

SECTION 5716. Arkansas Code § 12-8-403(a)(2)(B), concerning inquiry to determine abuse by the Director of the Department of Arkansas State Police is amended to read as follows:

(B) The records may be over a reasonable period of time as requested by the ~~Department~~ Division of Arkansas State Police, but in no event shall there be less than ninety (90) days worth of documentation.

SECTION 5717. Arkansas Code § 12-8-404(a)(1), concerning sanctions by the Director of the Department of Arkansas State Police, is amended to read as follows:

(a)(1) Upon the completion of an inquiry, the Director of the ~~Department~~ Division of Arkansas State Police shall forward all information to the prosecuting attorney of the affected municipality, who will make the determination as to whether the municipality has abused its police power.

SECTION 5718. Arkansas Code § 12-8-601 is amended to read as follows:
12-8-601. Title.

This subchapter shall be known and may be cited as the "~~Department~~ Division of Arkansas State Police Headquarters Facilities and Equipment Financing Act".

SECTION 5719. The introductory language of Arkansas Code § 12-8-602(1)(B)-(6), concerning the legislative findings concerning the Department of Arkansas State Police Headquarters Facilities and Equipment Financing Act, are amended to read as follows:

(1) The ~~Department~~ Division of Arkansas State Police is faced daily with:

1 (A) Maintaining the most efficient and secure methods of
2 transmitting and processing information between officers in the field and
3 headquarters;

4 (B) The need to maintain and develop the most efficient
5 means of allocating ~~department~~ division personnel and other resources,
6 particularly in emergency circumstances; and

7 (C) The need to design, construct, and maintain facilities
8 from which the ~~department's~~ division's personnel and resources may be
9 stationed and deployed;

10 (2) There is a need to continuously improve, upgrade, expand,
11 and maintain the ~~department's~~ division's headquarters facilities and
12 communication and information technology systems and equipment to support the
13 police force and its mission to protect and serve the citizens of the state;

14 (3) A designated method of financing is necessary to enable the
15 ~~department~~ division to obtain and maintain communication and information
16 technology equipment and headquarters facilities;

17 (4) The use of tax-exempt revenue bonds to finance communication
18 and information technology equipment and headquarters facilities has proven
19 to be an economical and cost-efficient method for financing equipment and
20 facilities for the ~~department~~ division;

21 (5) Certain driver license fees have been pledged and utilized
22 by the ~~department~~ Department of Arkansas State Police or Division of Arkansas
23 State Police since 1997 to finance equipment and facilities for the
24 department or division;

25 (6) These driver license fees should continue to be designated
26 as a source of funding to be utilized and pledged by the ~~department~~ division
27 to finance or purchase communication and information technology equipment and
28 headquarters facilities;

29
30 SECTION 5720. Arkansas Code § 12-8-603(1)(A), concerning the
31 definition of "acquire" under the Department of Arkansas State Police
32 Headquarters Facilities and Equipment Financing Act, is amended to read as
33 follows:

34 (A) Are determined by the Arkansas State Police Commission
35 to be in the best interests of the ~~Department~~ Division of Arkansas State
36 Police; and

1
2 SECTION 5721. The introductory language of Arkansas Code § 12-8-
3 603(6), concerning the definition of "headquarters facility" under the
4 Department of Arkansas State Police Headquarters Facilities and Equipment
5 Financing Act, is amended to read as follows:

6 (6) "Headquarters facility" means part or all of one (1) or more
7 items or properties used by the ~~department~~ division to accomplish or
8 facilitate its purposes, including without limitation:

9
10 SECTION 5722. Arkansas Code § 12-8-603(6), concerning the definition
11 of "headquarters facility" under the Department of Arkansas State Police
12 Headquarters Facilities and Equipment Financing Act, is amended to read as
13 follows:

14 (6) "Headquarters facility" means part or all of one (1) or more
15 items or properties used by the ~~department~~ division to accomplish or
16 facilitate its purposes, including without limitation:

17 (A) Land, buildings, fixtures, infrastructure,
18 improvements, furniture, equipment, software, and personal property necessary
19 or convenient to the land, buildings, fixtures, infrastructure, improvements,
20 furniture, equipment, and software; and

21 (B) Engineering, design, construction, or architectural
22 plans related to a property used by the ~~department~~ division;

23
24 SECTION 5723. Arkansas Code § 12-8-604(2), concerning the pledge of
25 revenues under the Department of Arkansas State Police Headquarters
26 Facilities and Equipment Financing Act, is amended to read as follows:

27 (2) Used by the ~~Department~~ Division of Arkansas State Police as
28 provided in this subchapter.

29
30 SECTION 5724. Arkansas Code § 12-8-605(2), concerning the powers of
31 the Arkansas State Police Commission, is amended to read as follows:

32 (2) Contract to acquire headquarters facilities and
33 communication and information technology equipment on the terms and
34 conditions specified by this subchapter and approved by the Director of the
35 ~~Department~~ Division of Arkansas State Police with the consent of the
36 commission;

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SECTION 5725. Arkansas Code § 12-8-606 is amended to read as follows:
12-8-606. Use of pledged revenues.

(a)(1) The debt service payments and other costs relating to a headquarters facility or communication and information technology equipment shall be secured by a lien on and pledge of the pledged revenues.

(2) To the extent that pledged revenues are not required to make debt service payments, the pledged revenues shall be released to the ~~Department~~ Division of Arkansas State Police to provide operating funds as described in this section.

(b)(1) All pledged revenues are cash funds restricted in their use and dedicated and to be used solely as provided in this subchapter.

(2) When pledged revenues are received by the Commissioner of Motor Vehicles, the Office of Motor Vehicle, the ~~Department~~ Division of Arkansas State Police, the Arkansas State Police Commission, the Department of Finance and Administration, or any other state agency, the pledged revenues shall be deposited as cash funds into a bank selected by the ~~Department~~ Division of Arkansas State Police to the credit of the ~~Department~~ Division of Arkansas State Police Financing Fund.

(c)(1) On the date that the Arkansas Development Finance Authority issues bonds under this subchapter and the Arkansas Development Finance Authority Act, § 15-5-101 et seq., §§ 15-5-201 – 15-5-211, 15-5-213, and 15-5-301 – 15-5-316, any revenues in the ~~Department~~ Division of Arkansas State Police Financing Fund shall be pledged revenues.

(2) Debt service payments shall be paid from the ~~Department~~ Division of Arkansas State Police Financing Fund as stated in the financing documents.

(3)(A) If all debt service payments have been properly made on the last day of each fiscal quarter, the pledged revenues remaining in the ~~Department~~ Division of Arkansas State Police Financing Fund shall be withdrawn from the ~~Department~~ Division of Arkansas State Police Financing Fund and deposited into the State Treasury as special revenues to the credit of the ~~Department~~ Division of Arkansas State Police Fund.

(B) However, if any debt service payments remain to be paid under this subchapter, all moneys in the ~~Department~~ Division of Arkansas State Police Financing Fund shall continue to be pledged to the debt service

1 payments and other costs in connection with the bonds and the maintenance of
2 reserves, notwithstanding the right of the ~~Department~~ Division of Arkansas
3 State Police to withdraw funds on the last day of each fiscal quarter if debt
4 service payments are current.

5 (d) If any debt service payments remain to be made, the General
6 Assembly may modify or change the pledged revenues only if there are always
7 maintained in effect and made available for the payment of debt service
8 payments sources of revenue comparable in amount and time of receipt that
9 produce revenues sufficient to provide for and secure debt service payments
10 when due.

11
12 SECTION 5726. Arkansas Code § 12-8-607 is amended to read as follows:

13 12-8-607. ~~Department~~ Division of Arkansas State Police Financing Fund.

14 (a) There is created the ~~Department~~ Division of Arkansas State Police
15 Financing Fund.

16 (b) The fund is a cash fund of the ~~Department~~ Division of Arkansas
17 State Police and shall be used as provided in this subchapter.

18
19 SECTION 5727. Arkansas Code § 12-9-102(1)(B), concerning the
20 definition of "law enforcement agency" under the laws governing the
21 Commission on Law Enforcement Standards, is amended to read as follows:

22 (B) The ~~Arkansas Commission on~~ Division of Law Enforcement
23 Standards and Training and the Black River Technical College Law Enforcement
24 Training Academy as designated under § 12-9-210; and

25
26 SECTION 5728. Arkansas Code § 12-9-103(b)(1)(A), concerning the
27 creation, members, meetings, and director of the Arkansas Commission on Law
28 Enforcement Standards and Training, is amended to read as follows:

29 (b)(1)(A) Two (2) members of the commission shall be chiefs of police
30 of municipalities in Arkansas, two (2) members of the commission shall be
31 county sheriffs of counties in this state, one (1) member shall be an officer
32 of the ~~Department~~ Division of Arkansas State Police, two (2) members shall be
33 appointed to represent the public, one (1) member shall be an educator in the
34 field of criminal justice, and one (1) member shall represent the Arkansas
35 Municipal Police Association.

36

1 SECTION 5729. Arkansas Code § 12-9-103(g), concerning the creation,
2 members, meetings, and director of the Arkansas Commission on Law Enforcement
3 Standards and Training, is amended to read as follows:

4 (g)(1) Upon recommendation of the commission, the Governor shall
5 appoint the Director of the Division of Law Enforcement Standards and
6 Training, who shall perform such duties as may be directed by the commission
7 and who shall serve at the pleasure of the Governor.

8 (2) The director shall report to the Secretary of the Department
9 of Public Safety.

10
11 SECTION 5730. Arkansas Code § 12-9-105 is amended to read as follows:
12 12-9-105. Employees.

13 The ~~Arkansas Commission on~~ Division of Law Enforcement Standards and
14 Training may employ such employees as are necessary to efficiently and
15 effectively carry out this subchapter and as may be authorized by
16 appropriations of the General Assembly.

17
18 SECTION 5731. Arkansas Code § 12-9-107 is amended to read as follows:
19 12-9-107. Training programs.

20 (a)(1) For the purpose of this subchapter, the ~~Arkansas Commission on~~
21 Division of Law Enforcement Standards and Training may cooperate with
22 federal, state, and local law enforcement agencies in establishing and
23 conducting instruction and training programs for law enforcement officers of
24 this state, its counties, and municipalities.

25 (2) Cooperation under subdivision (a)(1) of this section may
26 include without limitation the use of any training facility, equipment, or
27 personnel to conduct training or provide services for any law enforcement or
28 public safety purpose.

29 (b) The ~~commission~~ division shall establish and maintain police
30 training programs through such agencies and institutions as the ~~commission~~
31 division may deem appropriate to carry out the intent of this subchapter.

32 (c) The ~~commission~~ division shall work with each state agency and
33 political subdivision that adheres to the selection and training standards
34 established by the ~~commission~~ division to provide allowable tuition, living,
35 and training expenses incurred by the officers in attendance at approved
36 training programs.

1 (d)(1) It is the intent of this subchapter that the expenses of
2 attending the approved training programs established under subsection (c) of
3 this section shall be furnished by the state through the ~~Arkansas Law~~
4 ~~Enforcement Training Academy~~ division or any other manner that may be
5 prescribed by the ~~commission~~ division, and no cost or charge shall be made to
6 any local political subdivision for the actual cost of the training.

7 (2) The state shall not be liable for the travel cost or any
8 salary in connection with attending any training program.

9 (3) The ~~commission~~ division may accept reimbursement from any
10 public or private entity for the use of its training facilities, equipment,
11 or personnel during the providing of services.

12 (e) The expenses of attending training provided pursuant to a
13 memorandum of understanding between the State of Arkansas and the United
14 States Department of Justice or the United States Department of Homeland
15 Security shall be paid in accordance with the provisions of § 12-8-104.

16 (f) The ~~commission~~ division shall administer the training and
17 certification program for court security officers under the Arkansas Court
18 Security Act, § 16-10-1001 et seq.

19 (g)(1) Persons such as doctors, nurses, firefighters, first
20 responders, or other medical personnel, persons engaged in homeland security,
21 or persons otherwise engaged in assisting in the protection of public welfare
22 and safety who are not law enforcement personnel may attend training or
23 receive instruction at the invitation of the ~~commission~~ division.

24 (2) The ~~commission~~ division may assess a fee on a person invited
25 to attend training or receive instruction under this subsection to reimburse
26 the ~~commission~~ division for costs associated with the training or instruction
27 under this subsection.

28
29 SECTION 5732. Arkansas Code § 12-9-110(a), concerning the training of
30 civilians to file parking violations and traffic accident reports, is amended
31 to read as follows:

32 (a) The Arkansas Commission on Law Enforcement Standards and Training
33 shall by regulation establish the qualifications including minimum training
34 standards for persons performing law enforcement-related duties pursuant to
35 this section within cities of the first class and within other areas of the
36 State of Arkansas for cadets that are appointed by the Director of the

1 ~~Department~~ Division of Arkansas State Police.

2
3 SECTION 5733. The introductory language of Arkansas Code § 12-9-
4 110(b), concerning the training of civilians to file parking violations and
5 traffic accident reports, is amended to read as follows:

6 (b) Municipal police departments of cities of the first class and the
7 ~~Department~~ Division of Arkansas State Police may employ persons who do not
8 meet certification requirements prescribed by the commission, and the persons
9 may:

10
11 SECTION 5734. The introductory language of Arkansas Code § 12-9-
12 110(d)(2), concerning the training of civilians to file parking violations
13 and traffic accident reports, is amended to read as follows:

14 (2) However, the ~~department~~ division and cities of the first
15 class may establish more stringent training requirements.

16
17 SECTION 5735. Arkansas Code § 12-9-111(a), concerning uniforms, is
18 amended to read as follows:

19 (a) The Arkansas Commission on Law Enforcement Standards and Training
20 is exempt from § 19-6-109(c) for the purpose of buying uniforms for students
21 and law enforcement officers employed by the ~~commission~~ Division of Law
22 Enforcement Standards and Training.

23
24 SECTION 5736. Arkansas Code § 12-9-115 is amended to read as follows:
25 12-9-115. Training for constables.

26 After consultation with the Arkansas Constable Association, the
27 ~~Arkansas Commission on~~ Division of Law Enforcement Standards and Training
28 shall develop and certify a training course of one hundred ten (110) hours to
29 one hundred sixty (160) hours for constables in accordance with § 14-14-1314.

30
31 SECTION 5737. Arkansas Code § 12-9-117 is amended to read as follows:
32 12-9-117. Award of pistol upon retirement or death of a certified law
33 enforcement officer employed by the ~~commission~~ division.

34 (a) When a certified law enforcement officer employed by the ~~Arkansas~~
35 ~~Commission on~~ Division of Law Enforcement Standards and Training or a state-
36 funded law enforcement training academy retires from service or dies while

1 still employed with the ~~commission~~ division or the state-funded law
2 enforcement training academy, in recognition of and appreciation for the
3 service of the retiring or deceased certified law enforcement officer, the
4 ~~commission~~ division or the state-funded law enforcement training academy may
5 award the pistol carried by the certified law enforcement officer at the time
6 of his or her death or retirement from service to:

7 (1) The certified law enforcement officer; or

8 (2) The certified law enforcement officer's spouse if the spouse
9 is eligible under applicable state and federal laws to possess a firearm.

10 (b)(1) A certified law enforcement officer employed by the ~~commission~~
11 division or a state-funded law enforcement training academy may retain his or
12 her pistol he or she carried at the time of his or her retirement from
13 service.

14 (2) If the certified law enforcement officer dies while he or
15 she is employed by the ~~commission~~ division or a state-funded law enforcement
16 training academy, his or her spouse may receive or retain the pistol carried
17 by the certified law enforcement officer at the time of his or her death, if
18 the spouse is eligible under applicable state and federal laws to possess a
19 firearm.

20
21 SECTION 5738. Arkansas Code § 12-9-119(e), concerning behavioral
22 health crisis intervention training, is amended to read as follows:

23 (e) All training required under this section and the curriculum for
24 the training shall be developed by the Division of Law Enforcement Standards
25 and Training, ~~commission~~ in collaboration with the Criminal Justice
26 Institute.

27
28 SECTION 5739. Arkansas Code § 12-9-121(a) and (b), concerning an
29 additional salary payment by the Arkansas Commission on Law Enforcement
30 Standards and Training, are amended to read as follows:

31 (a)(1) The ~~Arkansas Commission on~~ Division of Law Enforcement
32 Standards and Training may make additional salary payments from available
33 funds to employees of the ~~commission~~ division who have attained law
34 enforcement certification above the basic certificate level, as defined by
35 the ~~commission~~ Division of Law Enforcement Standards and Training.

36 (2) The award of an additional salary payment under this section

1 is contingent upon the:

2 (A) Existence of sufficient funding independent of funding
3 specifically set aside for other programs within the ~~commission~~ division; and

4 (B) Discretion of the Director of the Division of Law
5 Enforcement Standards and Training in coordination with the Secretary of the
6 Department of Public Safety.

7 (b)(1) Eligible employees of the ~~commission~~ division may be paid up to
8 the following annual amounts for the respective certifications:

9 (A) General certificate – three hundred dollars (\$300);

10 (B) Intermediate certificate – six hundred dollars (\$600);

11 (C) Advanced certificate – nine hundred dollars (\$900);

12 and

13 (D) Senior certificate – one thousand two hundred dollars
14 (\$1,200).

15 (2) Payment of the additional salary amounts may be made
16 monthly, quarterly, semiannually, or annually depending upon the availability
17 of funding and is restricted to full-time law enforcement officers employed
18 by the ~~commission~~ division.

19

20 SECTION 5740. Arkansas Code § 12-9-202 is amended to read as follows:

21 12-9-202. Location of academy.

22 The Arkansas Law Enforcement Training Academy shall be located at a
23 place which, in the opinion of the Director of the Arkansas Commission on
24 Division of Law Enforcement Standards and Training, will serve the best
25 interests of the state in the carrying out of the intent and purposes of this
26 subchapter.

27

28 SECTION 5741. Arkansas Code § 12-9-203(a), concerning the disposition
29 and acceptance of gifts and grants, is amended to read as follows:

30 (a) The ~~Arkansas Commission on~~ Division of Law Enforcement Standards
31 and Training may accept gifts, grants, donations, equipment and materials,
32 and bequests of money or gratuities donated by private persons or
33 corporations.

34

35 SECTION 5742. Arkansas Code § 12-9-204(a)(1) and (2), concerning the
36 law enforcement powers of the Arkansas Commission on Law Enforcement

1 Standards and Training, are amended to read as follows:

2 (1) The Director of the Division of Law Enforcement Standards
3 and Training;

4 (2) Employees of the ~~commission~~ Division of Law Enforcement
5 Standards and Training appointed by the Director of the Division of Law
6 Enforcement Standards and Training as law enforcement officers;

7
8 SECTION 5743. Arkansas Code § 12-9-204(c), concerning the law
9 enforcement powers of the Arkansas Commission on Law Enforcement Standards
10 and Training, is amended to read as follows:

11 (c) The personnel described in subsection (a) of this section shall:

12 (1) Be credited with service toward maintaining and increasing
13 certification levels for time employed at the ~~commission~~ Arkansas Commission
14 on Law Enforcement Standards and Training or the division and the Black River
15 Technical College Law Enforcement Training Academy; and

16 (2) Receive credit for years of law enforcement service for time
17 employed at the ~~commission~~ or the division, the Arkansas Police Corps
18 Training Program at the University of Arkansas at Little Rock, or the Black
19 River Technical College Law Enforcement Training Academy upon employment as
20 law enforcement officers elsewhere in the State of Arkansas.

21
22 SECTION 5744. Arkansas Code § 12-9-210 is amended to read as follows:

23 12-9-210. Designated law enforcement agencies.

24 ~~The Arkansas Commission on~~ Division of Law Enforcement Standards and
25 Training and the Black River Technical College Law Enforcement Training
26 Academy are designated as law enforcement agencies.

27
28 SECTION 5745. Arkansas Code § 12-9-211(b)(2), concerning the ability
29 of private college or university law enforcement officers to attend the
30 Arkansas Law Enforcement Training Academy, is amended to read as follows:

31 (2) Reimburse the ~~Arkansas Commission on~~ Division of Law
32 Enforcement Standards and Training for any cost associated with the private
33 college or university law enforcement officer's training or instruction at
34 the academy.

35
36 SECTION 5746. Arkansas Code § 12-9-602(a)(1), concerning the response

1 by the law enforcement officer and the duty of the Arkansas Commission on Law
2 Enforcement Standards and Training, for a notice of employment, appointment,
3 or separation, is amended to read as follows:

4 (a)(1)(A) An employing agency shall immediately notify the ~~Arkansas~~
5 ~~Commission on~~ Division of Law Enforcement Standards and Training in writing,
6 on a form adopted by the ~~commission~~ division, of the employment or
7 appointment, or separation from employment or appointment, of any law
8 enforcement officer.

9 (B) The employing agency must maintain the original form
10 and submit, or electronically transmit, a copy of the form to the ~~commission~~
11 division.

12
13 SECTION 5747. Arkansas Code § 12-9-602(b)(1)(A) and (B), concerning
14 the response by the law enforcement officer and the duty of the Arkansas
15 Commission on Law Enforcement Standards and Training, for a notice of
16 employment, appointment, or separation, are amended to read as follows:

17 (b)(1)(A) In a case of separation from employment or appointment, the
18 employing agency shall execute and maintain an affidavit-of-separation form
19 adopted by the ~~commission~~ division, setting forth in detail the facts and
20 reasons for such separation.

21 (B) A copy of the affidavit-of-separation form must be
22 submitted, or electronically transmitted, to the ~~commission~~ division.

23
24 SECTION 5748. Arkansas Code § 12-9-602(b)(3), concerning the response
25 by the law enforcement officer and the duty of the Commission on Law
26 Enforcement Standards and Training, for a notice of employment, appointment,
27 or separation, is amended to read as follows:

28 (3) Any law enforcement officer who has separated from
29 employment or appointment must be permitted to respond to the separation, in
30 writing, to the ~~commission~~ division, setting forth the facts and reasons for
31 the separation as he or she understands them.

32
33 SECTION 5749. Arkansas Code § 12-9-602(c), concerning the response by
34 the law enforcement officer and the duty of the Commission on Law Enforcement
35 Standards and Training, for a notice of employment, appointment, or
36 separation, is amended to read as follows:

1 (c)(1) Before employing or appointing a law enforcement officer, a
2 subsequent employing agency must contact the ~~commission~~ division to inquire
3 as to the facts and reasons a law enforcement officer became separated from
4 any previous employing agency.

5 (2) The ~~commission~~ division shall, upon request and without
6 prejudice, provide to the subsequent employing agency all information that is
7 required under subsections (a) and (b) of this section and that is in its
8 possession.

9
10 SECTION 5750. Arkansas Code § 12-9-602(e), concerning the response by
11 the law enforcement officer and the duty of the Commission on Law Enforcement
12 Standards and Training, for a notice of employment, appointment, or
13 separation, is amended to read as follows:

14 (e)(1) The ~~commission, its members,~~ division and its employees who
15 disclose information pursuant to this section are immune from civil liability
16 for such disclosure or its consequences.

17 (2) The ~~commission, its members,~~ division and its employees
18 shall not be civilly liable for:

- 19 (A) Disclosure of information under this subchapter; or
20 (B) Performing any other duties under this subchapter.

21
22 SECTION 5751. Arkansas Code § 12-10-203 is amended to read as follows:
23 12-10-203. Policy committee.

24 (a) A seven-member policy committee composed of two (2)
25 representatives each from the Arkansas Sheriffs' Association, the Arkansas
26 Chiefs of Police Association, and the Arkansas Law Enforcement Officers
27 Association and one (1) representative from the ~~Department~~ Division of
28 Arkansas State Police will be responsible for policy making and for policing
29 a statewide communication system.

30 (b) Members of the policy committee will be appointed by the
31 presidents of the respective law enforcement associations and the Director of
32 the ~~Department~~ Division of Arkansas State Police.

33
34 SECTION 5752. Arkansas Code § 12-10-318(c)(1)(D), concerning the
35 imposition and liability for emergency telephone service charges and the
36 establishment of the Arkansas Emergency Telephone Services Board, is amended

1 to read as follows:

2 (D) The Director of the ~~Arkansas Department~~ Division of
3 Emergency Management or the director's designee;

4
5 SECTION 5753. Arkansas Code § 12-10-318(c)(2)(B)(i)(b), concerning the
6 imposition and liability for emergency telephone service charges and the
7 establishment of the Arkansas Emergency Telephone Services Board, is amended
8 to read as follows:

9 (b) Each state fiscal year, two hundred
10 thousand dollars (\$200,000) of the total monthly revenues collected and
11 remitted under subdivision (c)(2)(B)(i)(a) of this section shall be
12 transferred and deposited to the credit of the books of the Treasurer of
13 State and the Auditor of State for the Miscellaneous Agencies Fund Account
14 for the ~~Arkansas Commission on~~ Division of Law Enforcement Standards and
15 Training, to be used exclusively for training and all related costs under §
16 12-10-325;

17
18 SECTION 5754. Arkansas Code § 12-10-325(a)(1) and (2), concerning
19 training standards, are amended to read as follows:

20 (a)(1) A public safety agency, a public safety answering point, a
21 dispatch center, or a 911 public safety communications center may provide
22 training opportunities for 911 public safety communications center personnel
23 through the ~~Arkansas Commission on~~ Division of Law Enforcement Standards and
24 Training ~~and the Arkansas Law Enforcement Training Academy.~~

25 (2) The ~~Arkansas Law Enforcement Training Academy~~ division shall
26 develop training standards for dispatchers, supervisors, and instructors in
27 Arkansas in consultation with the Association of Public-Safety-Communications
28 Officials-International, Inc., and submit the training standards to the
29 Arkansas Commission on Law Enforcement Standards and Training for approval.

30
31 SECTION 5755. Arkansas Code § 12-10-325(b), concerning training
32 standards for 911 public safety communications center personnel, is amended
33 to read as follows:

34 (b)(1) A private safety agency may attend training or receive
35 instruction at the invitation of the ~~commission~~ division.

36 (2) The ~~commission~~ division may assess a fee on a private safety

1 agency invited to attend training or receive instruction under this
2 subsection to reimburse the ~~commission~~ division for costs associated with the
3 training or instruction.

4
5 SECTION 5756. Arkansas Code § 12-12-103(c)(1)(B), concerning pawnshop
6 records and penalties, is amended to read as follows:

7 (B) The Director of the ~~Department~~ Division of Arkansas
8 State Police, a member of the ~~Department~~ Division of Arkansas State Police, a
9 county sheriff or deputy of the county, or a police officer of the
10 municipality in which the pawnshop or pawnbroker is located shall have access
11 to the records at any reasonable time.

12
13 SECTION 5757. Arkansas Code § 12-12-105(d), concerning controlled
14 substance laboratory seizure reports, is amended to read as follows:

15 (d)(1) The ~~Executive~~ Director of the State Crime Laboratory shall
16 catalogue the number of controlled substance laboratories reported to the
17 State Crime Laboratory through evidence submission.

18 (2) For each reported controlled substance laboratory, the
19 ~~Executive~~ Director of the State Crime Laboratory shall record the:

20 (A) Judicial district where the laboratory was located;

21 (B) Date of seizure of the laboratory; and

22 (C) Name of the seizing law enforcement agency.

23
24 SECTION 5758. Arkansas Code § 12-12-201 is amended to read as follows:
25 12-12-201. Creation – Director.

26 (a) There is created the Arkansas Crime Information Center, under the
27 supervision of the Supervisory Board for the Arkansas Crime Information
28 Center established by this subchapter.

29 (b) This center shall consist of ~~a director~~ the Director of the
30 Arkansas Crime Information Center and such other staff of the Department of
31 Public Safety under the general supervision of the director as may be
32 necessary to administer the services of this subchapter, subject to the
33 approval of funds authorized by the General Assembly.

34 (c) The board shall name the director in consultation with the
35 Secretary of the Department of Public Safety.

36

1 SECTION 5759. Arkansas Code § 12-12-202(b)(9), concerning members and
2 meetings of the Supervisory Board for the Arkansas Crime Information Center,
3 is amended to read as follows:

4 (9) The Director of the ~~Department~~ Division of Correction or his
5 or her designated agent;

6
7 SECTION 5760. Arkansas Code § 12-12-202(b)(12), concerning members and
8 meetings of the Supervisory Board for the Arkansas Crime Information Center,
9 is amended to read as follows:

10 (12) The Director of the ~~Department~~ Division of Arkansas State
11 Police or his or her designated agent; and

12
13 SECTION 5761. Arkansas Code § 12-12-304 is amended to read as follows:

14 12-12-304. ~~Executive director~~ Director of the State Crime Laboratory.

15 (a)(1) The State Crime Laboratory shall be headed by ~~an executive a~~
16 director who shall be appointed by the Governor and who shall serve at the
17 pleasure of the Governor.

18 (2) The director shall report to the Secretary of the Department
19 of Public Safety.

20 (b) The ~~Executive~~ Director of the State Crime Laboratory may delegate
21 specific duties to competent and qualified associates, assistants, and
22 deputies who may act for the ~~executive~~ director within the scope of the
23 authority granted him or her, subject, however, to such rules and regulations
24 as may be prescribed by the State Crime Laboratory Board.

25 (c) The board shall prescribe the duties, responsibilities,
26 compensation, and qualifications for the ~~executive~~ director.

27
28 SECTION 5762. Arkansas Code § 12-12-305(a), concerning the functions,
29 housing, and equipment of the State Crime Laboratory, is amended to read as
30 follows:

31 (a) There shall be established under the supervision of the ~~Executive~~
32 Director of the State Crime Laboratory a central office and laboratory
33 facility sufficient and adequate to house the various functions of the State
34 Crime Laboratory as set out in this subchapter and as may be necessary and
35 proper for the laboratory to perform in carrying out its official duties and
36 functions as provided by law.

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SECTION 5763. Arkansas Code § 12-12-306 is amended to read as follows:
12-12-306. State Medical Examiner.

(a) The ~~Executive~~ Director of the State Crime Laboratory shall appoint and employ a State Medical Examiner with the approval of the State Crime Laboratory Board and in consultation with the Secretary of the Department of Public Safety.

(b) The ~~executive~~ director may remove the examiner only for cause and with the approval of the board.

SECTION 5764. Arkansas Code § 12-12-309(a), concerning utilization of outside personnel by the Director of the State Crime Laboratory, is amended to read as follows:

(a) The State Crime Laboratory Board may authorize the ~~Executive~~ Director of the State Crime Laboratory to contract with a medical school in this state accredited by an accrediting agency recognized by the United States Department of Education or approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education, or with other persons or institutions, to obtain services with which to perform the duties set forth in this subchapter.

SECTION 5765. Arkansas Code § 12-12-311(b) and (c), concerning cooperation with the staff of the State Crime Laboratory, are amended to read as follows:

(b) Any physician or other person in attendance or present at the death of a person or any hospital, if death occurs therein and results from such conditions and circumstances as set out in § 12-12-315 shall promptly notify the chief law enforcement official of the county or municipality which shall have jurisdiction and the laboratory of the death and shall assist in making available dead bodies and related evidence as may be requested by the ~~Executive~~ Director of the State Crime Laboratory or his or her staff or by the law enforcement agency conducting the investigation.

(c) Any physician, surgeon, dentist, hospital, or other supplier of healthcare services shall cooperate and make available to the ~~executive~~ director or his or her staff the records, reports, charts, specimens, or x-

1 rays of the deceased as may be requested where death occurs and an
2 investigation is being conducted under the provisions of this subchapter.

3
4 SECTION 5766. Arkansas Code § 12-12-313(a), concerning records as
5 evidence and analyst's testimony, is amended to read as follows:

6 (a) The records and reports of autopsies, evidence analyses, drug
7 analyses, and any investigations made by the State Crime Laboratory under the
8 authority of this subchapter shall be received as competent evidence as to
9 the matters contained therein in the courts of this state subject to the
10 applicable rules of criminal procedure or civil procedure when duly attested
11 to by the ~~Executive~~ Director of the State Crime Laboratory or his or her
12 assistants, associates, or deputies.

13
14 SECTION 5767. Arkansas Code § 12-12-316(c), concerning the
15 transportation of corpses by the State Crime Laboratory, is amended to read
16 as follows:

17 (c) The laboratory shall provide transportation or shall bear the cost
18 of transportation at the option of the ~~Executive~~ Director of the State Crime
19 Laboratory, but in no case shall the cost of transportation of dead bodies
20 subject to the provisions of this subchapter be borne by the laboratory
21 without the prior approval and authorization of the ~~executive~~ director or his
22 or her staff.

23
24 SECTION 5768. Arkansas Code § 12-12-318(a)(2)(A), concerning the
25 authorization and restrictions on examinations, investigations, and
26 postmortem examinations, is amended to read as follows:

27 (2)(A) The laboratory shall make examinations, investigations,
28 or perform postmortem examinations to determine the cause of death as the
29 ~~Executive~~ Director of the State Crime Laboratory or his or her staff deems
30 necessary or as may be requested by the:

31 (i) County coroner of the county in which death
32 occurs or is discovered;

33 (ii) Prosecuting attorney of the jurisdiction in
34 which death occurs or is discovered;

35 (iii) County sheriff of the county in which death
36 occurs or is discovered;

1 (iv) Chief of police of the city in which death
2 occurs or is discovered;

3 (v) Board of Corrections or its designee, or the
4 Director of the ~~Department~~ Division of Correction or his or her designee if
5 the person was in the care, custody, or control of the ~~Department~~ Division of
6 Correction at the time of death; or

7 (vi) Director of the ~~Department~~ Division of Arkansas
8 State Police or his or her designee.

9
10 SECTION 5769. Arkansas Code § 12-12-318(d) and (e), concerning the
11 authorization and restrictions on examinations, investigations, and
12 postmortem examinations, are amended to read as follows:

13 (d) The ~~executive director~~ Director of the State Crime Laboratory and
14 his or her staff shall not, as a part of their official duties, perform any
15 postmortem examination at the request of any private citizen or any public
16 official other than those enumerated in this section.

17 (e) The provisions of this section shall supersede any and all other
18 laws relating to the power and authority of the ~~executive director~~ Director
19 of the State Crime Laboratory or his or her staff, including the examiner, to
20 conduct examinations, investigations, or postmortem examinations.

21
22 SECTION 5770. Arkansas Code § 12-12-318(f)(1) and (2), concerning the
23 authorization and restrictions on examinations, investigations, and
24 postmortem examinations, are amended to read as follows:

25 (f)(1) The ~~executive director~~ Director of the State Crime Laboratory
26 shall have the final authority on any ruling of manner of death which may
27 become a matter of dispute between those persons authorized by this section
28 to request a post-mortem examination as described in § 12-12-315 and the
29 examiner or his or her associates.

30 (2) The ~~executive director~~ Director of the State Crime
31 Laboratory shall use any and all material accumulated by the laboratory,
32 interview all parties necessary, and consult with any medical authority
33 necessary for him or her to make his or her decision as to the manner of
34 death, and his or her ruling shall be final and binding as that ruling
35 affects any documents generated and signed by any employee of the laboratory
36 relating to manner of death.

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SECTION 5771. Arkansas Code § 12-12-319(b), concerning embalming a corpse subject to examination, investigation, or autopsy, is amended to read as follows:

(b) When a body subject to examination by the examiner or his or her associates has been embalmed without authorization by or prior notice to the examiner or his or her associates, assistants, or deputies as provided for in this subchapter, the ~~Executive~~ Director of the State Crime Laboratory may, at his or her discretion, require an order from the circuit court of the jurisdiction in which death occurred before proceeding with his or her duties and responsibilities under this subchapter.

SECTION 5772. Arkansas Code § 12-12-322(a)(5), concerning hazardous duty pay, is amended to read as follows:

(5) Payment will be controlled by the ~~Executive~~ Director of the State Crime Laboratory.

SECTION 5773. Arkansas Code § 12-12-324(c), concerning testing by the State Crime Laboratory, is amended to read as follows:

(c) A law enforcement agency in this state may request the assistance of the ~~Department~~ Division of Arkansas State Police in tracing a firearm.

SECTION 5774. Arkansas Code § 12-12-326(a)(3)(A)(ii), concerning the definition of "police officer" under the laws regarding autopsies and line-of-duty-death, is amended to read as follows:

(ii) The ~~Department~~ Division of Arkansas State Police; or

SECTION 5775. Arkansas Code § 12-12-1010(a)(2)(A), concerning dissemination of criminal history information for other purposes, is amended to read as follows:

(A) Persons performing research related to the administration of criminal justice, subject to conditions approved by the central repository or the Identification Bureau of the ~~Department~~ Division of Arkansas State Police to assure the security of the information and the privacy of individuals to whom the criminal history information relates; and

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SECTION 5776. Arkansas Code § 12-12-1507 is amended to read as follows:

12-12-1507. Administration.

(a)(1) Release of criminal history information under this subchapter shall be made only by the Identification Bureau of the ~~Department~~ Division of Arkansas State Police and the Arkansas Crime Information Center as authorized by law.

(2) The ~~Department~~ Division of Arkansas State Police and the center may adopt rules and regulations consistent with the provisions and intent of this subchapter.

(b) The ~~department~~ division and the center may contract with the Information Network of Arkansas under the Information Network of Arkansas Act, § 25-27-101 et seq., or any other qualified third-party vendor in the establishment of the gateway or means of electronically processing transactions under this subchapter.

(c)(1) The ~~department~~ division shall not process a request for a Federal Bureau of Investigation background check unless a corresponding state background check through the Identification Bureau of the ~~Department~~ Division of Arkansas State Police has also been properly requested pursuant to this subchapter.

(2) The requirements of subdivision (c)(1) of this section may be waived upon written authorization of the Director of the ~~Department~~ Division of Arkansas State Police.

(d) The ~~Department~~ Division of Arkansas State Police Automated Fingerprint Identification System may access and use the National Fingerprint File and Interstate Identification Index as provided by the Federal Bureau of Investigation when the Arkansas Code authorizes a fingerprint-based Federal Bureau of Investigation check for a noncriminal justice purpose and a positive identification based on fingerprints is made.

SECTION 5777. Arkansas Code § 12-13-102(2), concerning the definition of "director" under the Fire Prevention Act, is repealed.

~~(2) "Director" means the Director of the Department of Arkansas State Police;~~

1 SECTION 5778. Arkansas Code § 12-13-102(5), concerning the definition
2 of "officer" under the Fire Prevention Act, is amended to read as follows:

3 (5) "Officer" means an officer of the ~~Department~~ Division of
4 Arkansas State Police whom the ~~director~~ Director of the Division of Arkansas
5 State Police may appoint or designate to execute the powers and perform the
6 duties specified in this subchapter and also includes all peace officers as
7 defined in subdivision (7) of this section;

8
9 SECTION 5779. Arkansas Code § 12-13-104 is amended to read as follows:
10 12-13-104. Administration and enforcement.

11 (a) The administration and enforcement of this subchapter are vested
12 in the ~~Department~~ Division of Arkansas State Police.

13 (b) The Director of the ~~Department~~ Division of Arkansas State Police
14 is empowered to create and maintain a State Fire Marshal Enforcement Section
15 in the ~~Department~~ Division of Arkansas State Police and to appoint such
16 personnel with such duties, powers, and titles as he or she may deem
17 necessary for the proper administration and enforcement of this subchapter.

18
19 SECTION 5780. Arkansas Code § 12-13-106 is amended to read as follows:
20 12-13-106. Section personnel.

21 The members or heads of the State Fire Marshal Enforcement Section
22 shall be appointed and serve in the same manner as provided by law for the
23 operation of other divisions of the ~~Department~~ Division of Arkansas State
24 Police.

25
26 SECTION 5781. The introductory language of Arkansas Code § 12-13-
27 107(a) concerning the duties of the Director of the Department of Arkansas
28 State Police, is amended to read as follows:

29 (a) It shall be the duty of the Director of the ~~Department~~ Division of
30 Arkansas State Police and his or her officers and deputies to enforce all
31 laws and ordinances with regard to the following:

32
33 SECTION 5782. Arkansas Code § 12-13-108 is amended to read as follows:
34 12-13-108. Ex officio deputies.

35 All mayors, members of fire departments, and peace officers shall be ex
36 officio deputies to the Director of the ~~Department~~ Division of Arkansas State

1 Police. They shall be subject to the duties and obligations imposed by this
2 subchapter in fire prevention and in the investigation of the cause, origin,
3 and circumstances of fires within their jurisdiction.

4
5 SECTION 5783. Arkansas Code § 12-13-109 is amended to read as follows:
6 12-13-109. Fire drills.

7 It shall be the duty of the Director of the ~~Department~~ Division of
8 Arkansas State Police, his or her officers, and deputies to require teachers
9 of public and private schools and all educational institutions to have one
10 (1) fire drill each month and to keep all doors and exits unlocked during
11 school hours.

12
13 SECTION 5784. Arkansas Code § 12-13-110(a)(1), concerning the
14 inspection of buildings by the Director of the Department of Arkansas State
15 police and his or her officers or deputies, is amended to read as follows:

16 (a)(1) Upon complaint of any person or on their own motion, the
17 Director of the ~~Department~~ Division of Arkansas State Police and his or her
18 officers or deputies may inspect all buildings and premises within their
19 jurisdiction and issue an order for the compliance with the director's
20 regulations.

21
22 SECTION 5785. Arkansas Code § 12-13-111(a)(1), concerning the
23 investigation of fires by the deputies of the Director of the Department of
24 Arkansas State Police, is amended to read as follows:

25 (a)(1) The deputies to the Director of the ~~Department~~ Division of
26 Arkansas State Police shall investigate each fire causing loss of life or
27 damage to property within their jurisdiction to determine if the fire was
28 caused by negligence or design.

29
30 SECTION 5786. Arkansas Code § 12-13-112(a), concerning inquires by the
31 Director of the Department of Arkansas State Police, is amended to read as
32 follows:

33 (a) When the Director of the ~~Department~~ Division of Arkansas State
34 Police or any officer or deputy has reason to believe that a crime or other
35 offense has been committed in connection with any fire, the director or his
36 or her deputy may conduct an inquiry in relation thereto.

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SECTION 5787. Arkansas Code § 12-13-114(a)(1), concerning civil actions regarding the Director of the Department of Arkansas State Police, is amended to read as follows:

(a)(1) No act taken by the Director of the ~~Department~~ Division of Arkansas State Police shall affect the rights of any policy holder or of any insurance company with regard to a loss by reason of any fire which the director has investigated.

SECTION 5788. Arkansas Code § 12-13-115 is amended to read as follows:
12-13-115. Annual report to Governor.

Annually on or before July 1, the Director of the ~~Department~~ Division of Arkansas State Police shall transmit to the Governor a full report of his or her proceedings under this subchapter, including statistics and recommendations he or she may deem advisable.

SECTION 5789. Arkansas Code § 12-15-202(a)(7), concerning eligibility to carry a concealed handgun, is amended to read as follows:

(7) Has fingerprint impressions on file with the ~~Department~~ Division of Arkansas State Police Automated Fingerprint Identification System.

SECTION 5790. Arkansas Code § 12-15-202(b)(2)(B), concerning eligibility to carry a concealed handgun, is amended to read as follows:

(B) The Director of the ~~Department~~ Division of Arkansas State Police shall keep a record of all retired ~~department~~ Department of State Police or Division of State Police officers authorized to carry a concealed handgun in the state and shall revoke any authorization for good cause shown.

SECTION 5791. Arkansas Code § 12-18-301(b), concerning the creation of the Child Abuse Hotline, is amended to read as follows:

(b) The Child Abuse Hotline is a unit established within the Department of Human Services and the ~~Department~~ Division of Arkansas State Police, or their designee, with the purpose of receiving and recording notifications and reports under this chapter.

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SECTION 5792. Arkansas Code § 12-18-1202 is amended to read as follows:

12-18-1202. Training regarding sexually exploited children.

The Arkansas Juvenile Officers Association, ~~Arkansas Law Enforcement Training Academy~~ the Division of Law Enforcement Standards and Training, or the Prosecutor Coordinator may provide training to intake officers, law enforcement, prosecutors, and any other appropriate staff concerning how to identify a sexually exploited child and how to obtain appropriate services for a sexually exploited child.

SECTION 5793. Arkansas Code § 12-75-109 is amended to read as follows:

12-75-109. ~~Arkansas Department~~ Division of Emergency Management – Establishment – Personnel.

(a) The ~~Arkansas Department~~ Division of Emergency Management is established as a public safety agency of the State of Arkansas.

(b)(1) The ~~Arkansas Department~~ Division of Emergency Management shall have a ~~director~~ Director of the Division of Emergency Management who is appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Public Safety.

(c)(1) The ~~Arkansas Department~~ Division of Emergency Management shall have such professional, technical, secretarial, and clerical employees and may make such expenditures within its appropriations or from any federal or other funds made available to it from any source whatsoever for the purpose of emergency services, as may be necessary to carry out the purposes of this chapter.

(2) All such employees shall be in job positions as approved by the secretary and the Office of Personnel Management ~~of the Division of Management Services of the Department of Finance and Administration.~~

(d)(1) There is created within the ~~Arkansas Department~~ Division of Emergency Management an emergency reserve cadre to be composed of trained and available specialists to assist regular employees during declared disaster response and recovery operations.

(2) The ~~Director of the Arkansas Department of Emergency~~

1 ~~Management~~ director shall establish training and professional standards
2 required to supplement state personnel based on state and federal disaster
3 recovery program needs and shall establish a list of persons with those
4 qualifications and make available to emergency reserve cadre personnel such
5 additional training and education opportunities as may be needed to maintain
6 currency and proficiency in the needed skills.

7 (3)(A) Emergency reserve cadre personnel shall be reimbursed at
8 the current state classified entry level salary rate for the position they
9 are temporarily employed to fill and meet such additional training,
10 experience, and qualifications as established by the director for the grade
11 level of the position for which they are employed.

12 (B) Emergency reserve cadre personnel shall:

13 (i) Be paid from disaster management funds or
14 administrative funds, or both;

15 (ii) Be limited to salary, logistical, and travel
16 expenses only; and

17 (iii) Not accrue ordinary leave, sick leave, or
18 other employee benefits except for workers' compensation eligibility for
19 injuries or death suffered in the line of duty.

20 (4)(A) Emergency reserve cadre personnel may be called to active
21 duty upon declaration of a disaster emergency as stipulated in this chapter
22 or the Disaster Relief Act of 1974, Pub. L. No. 93-288, or both, or by
23 executive order of the Governor upon recommendation by the director for due
24 cause or pending emergency needs or for disaster-related assistance to the
25 ~~Arkansas Department~~ Division of Emergency Management as determined by the
26 director and shall remain on active duty no longer than the maximum allowed
27 by the Office of Personnel Management ~~of the Division of Management Services~~
28 ~~of the Department of Finance and Administration~~ for part-time employment
29 status.

30 (B) Based on the size, impact, and magnitude of the
31 disaster event, the director shall determine the minimum number of emergency
32 reserve cadre personnel required to effectively supplement regular state
33 emergency management personnel.

34 (5) While in service described in subdivision (d)(4)(A) of this
35 section, the emergency reserve cadre personnel have the same immunities as
36 regular state employees for good faith performance of their designated and

1 assigned official duties under state sovereignty laws and practices.

2

3 SECTION 5794. The introductory language of Arkansas Code § 12-75-
4 110(a), concerning the state emergency operations plan and the Arkansas
5 Department of Emergency Management, is amended to read as follows:

6 (a) The ~~Arkansas Department~~ Division of Emergency Management shall
7 coordinate and maintain a state emergency operations plan and keep it
8 current, which plan may include:

9

10 SECTION 5795. Arkansas Code § 12-75-110(b) and (c), concerning the
11 state emergency operations plan and the Arkansas Department of Emergency
12 Management, are amended to read as follows:

13 (b)(1) In preparing and revising the state emergency operations plan,
14 the ~~department~~ division shall seek the advice and assistance of state
15 agencies, local government, business, labor, industry, agriculture, civic,
16 and volunteer organizations, and community leaders.

17 (2) In advising local and jurisdictional agencies, the
18 ~~department~~ division shall encourage them also to seek advice from the
19 entities listed in subdivision (b)(1) of this section.

20 (c) The state emergency operations plan or any part of the state
21 emergency operations plan may be incorporated in rules of the ~~department~~
22 division or executive orders that have the force and effect of law.

23

24 SECTION 5796. The introductory language of Arkansas Code § 12-75-
25 111(a), concerning the powers and duties of the Arkansas Department of
26 Emergency Management, is amended to read as follows:

27 (a) The ~~Arkansas Department~~ Division of Emergency Management shall,
28 with the assistance and cooperation of other state and local government
29 agencies:

30

31 SECTION 5797. Arkansas Code § 12-75-111(b), concerning the powers and
32 duties of the Arkansas Department of Emergency Management, is amended to read
33 as follows:

34 (b)(1) The ~~department~~ division shall take an integral part in the
35 development and revision of local and interjurisdictional emergency
36 operations plans prepared under § 12-75-118.

1 (2)(A) To meet the requirements of subdivision (b)(1) of this
2 section, the ~~department~~ division shall employ or otherwise secure the
3 services of professional and technical personnel capable of providing expert
4 assistance to political subdivisions, their local offices of emergency
5 management, interjurisdictional planning, and interjurisdictional offices of
6 emergency management.

7 (B) Personnel described in subdivision (b)(2)(A) of this
8 section shall consult with political subdivisions, local offices of emergency
9 management, and interjurisdictional offices of emergency management on a
10 regularly scheduled basis and shall make field examinations of the area,
11 circumstances, and conditions to which particular local and
12 interjurisdictional emergency operations plans are intended to apply and may
13 suggest or require revisions.

14
15 SECTION 5798. Arkansas Code § 12-75-112 is amended to read as follows:
16 12-75-112. Communications networks.

17 (a) The ~~Arkansas Department~~ Division of Emergency Management shall
18 operate and maintain information systems which will make available both voice
19 and data links with federal agencies, other states, and state agencies as are
20 assigned an emergency management role in the state emergency operations plan
21 and local offices of emergency management.

22 (b) In addition to the minimum requirements of subsection (a) of this
23 section, additional information systems networks may be established as deemed
24 necessary by the Director of the ~~Arkansas Department~~ Division of Emergency
25 Management.

26
27 SECTION 5799. Arkansas Code § 12-75-113(a), concerning emergency
28 response vehicles, is amended to read as follows:

29 (a) Due to the time-critical nature of response to the scene of a
30 disaster or major emergency occurrence, the Director of the ~~Arkansas~~
31 ~~Department~~ Division of Emergency Management may designate appropriate
32 vehicles as requested in the staffing patterns of the state offices of
33 emergency management and local offices of emergency management and designate
34 other state agency vehicles with an emergency management response requirement
35 as emergency response vehicles.

36

1 SECTION 5800. Arkansas Code § 12-75-114(c)(8), concerning disaster
2 emergency responsibilities of the Governor, is amended to read as follows:

3 (8) Expenditures from the emergency response fund shall be made
4 by executive order of the Governor, upon recommendation and verification by
5 the Director of the ~~Arkansas Department~~ Division of Emergency Management, and
6 may only be made to defray immediate costs associated with response
7 activities by emergency forces of state and local governments and private
8 nonprofit forces duly registered in accordance with § 12-75-129.

9
10 SECTION 5801. Arkansas Code § 12-75-115(a)(3), concerning disaster
11 prevention, is amended to read as follows:

12 (3) Studies under subdivision (a)(2) of this section shall be
13 furnished to the Governor and the ~~Arkansas Department~~ Division of Emergency
14 Management as soon as possible after completion and shall concentrate on
15 means of reducing or avoiding damage caused by possible disasters or the
16 consequences of possible disasters.

17
18 SECTION 5802. Arkansas Code § 12-75-115(b)(1), concerning disaster
19 prevention, is amended to read as follows:

20 (b)(1) If the ~~department~~ division believes, on the basis of the
21 studies or other competent evidence, that an area is susceptible to a
22 disaster of catastrophic proportions without adequate warning, that existing
23 building standards and land use control in that area are inadequate and could
24 add substantially to the magnitude of the disaster, and that changes in
25 zoning regulations, other land use regulations, or building requirements are
26 essential in order to further the purposes of this section, it shall specify
27 the essential changes to the Governor.

28
29 SECTION 5803. Arkansas Code § 12-75-116(a)(2), concerning liaison
30 officers and state and local governmental entities, is amended to read as
31 follows:

32 (2) In furtherance of the policy described in subdivision (a)(1)
33 of this section, the head of each state department, commission, agency, or
34 institution with an emergency management role or responsibility shall appoint
35 a member or members of his or her staff as agency emergency management
36 liaison officer or officers to act on his or her behalf in ensuring the

1 agency's capability to fulfill its role in emergency management activities
2 and shall ensure that the ~~Arkansas Department~~ Division of Emergency
3 Management is notified of any change in the appointment.
4

5 SECTION 5804. Arkansas Code § 12-75-116(b)(1) and (2), concerning
6 liaison officers and state and local governmental entities, are amended to
7 read as follows:

8 (1) Maintain close and continuous liaison with the ~~department~~
9 division, as applicable;

10 (2) Prepare agency annexes to the state and, as applicable,
11 local emergency operations plans which are compatible with this chapter and
12 with guidance provided by the ~~department~~ division;
13

14 SECTION 5805. Arkansas Code § 12-75-116(b)(5), concerning liaison
15 officers and state and local governmental entities, is amended to read as
16 follows:

17 (5) Ensure that the agency can respond promptly and
18 cooperatively with other agencies in any disaster or major emergency
19 situation under the overall management of the ~~department~~ division;
20

21 SECTION 5806. Arkansas Code § 12-75-116(c), concerning liaison
22 officers and state and local governmental entities, are amended to read as
23 follows:

24 (c) As conditions or situations may require or dictate, the Director
25 of the ~~Arkansas Department~~ Division of Emergency Management may request a
26 state department, agency, or institution not currently participating in the
27 emergency management liaison officer program to appoint an officer in
28 accordance with this section.
29

30 SECTION 5807. The introductory language of Arkansas Code § 12-75-
31 117(a)(2), concerning interjurisdictional disaster planning and service areas,
32 is amended to read as follows:

33 (2) A finding of the Governor pursuant to this subsection shall
34 be based on an assessment conducted by the Director of the ~~Arkansas~~
35 ~~Department~~ Division of Emergency Management using one (1) or more factors
36 related to the difficulty of maintaining an efficient, effective, and

1 economical system for disaster and emergency preparedness, mitigation,
2 response, and recovery such as:

3
4 SECTION 5808. Arkansas Code § 12-75-118(a)(1), concerning local and
5 interjurisdictional offices of emergency management services, is amended to
6 read as follows:

7 (a)(1) Each political subdivision within this state shall be within
8 the jurisdiction of and served by the ~~Arkansas Department~~ Division of
9 Emergency Management and by a local office of emergency management or
10 interjurisdictional office of emergency management.

11
12 SECTION 5809. Arkansas Code § 12-75-118(c), concerning local and
13 interjurisdictional offices of emergency management services, is amended to
14 read as follows:

15 (c)(1) The Governor shall determine if additional municipal local
16 offices of emergency management or interjurisdictional offices of emergency
17 management are required based on an assessment conducted by the Director of
18 the ~~Arkansas Department~~ Division of Emergency Management using one (1) or
19 more of the factors enumerated in § 12-75-117(a).

20 (2) The ~~department~~ division shall publish and keep current a
21 list of municipalities required to have local offices of emergency management
22 or interjurisdictional offices of emergency management under this subsection.

23
24 SECTION 5810. Arkansas Code § 12-75-118(f)(2), concerning local and
25 interjurisdictional offices of emergency management services, is amended to
26 read as follows:

27 (2) The chief executive of a political subdivision shall notify
28 the ~~department~~ division of the manner in which the political subdivision is
29 providing or securing disaster planning and emergency management, provide a
30 staffing pattern for the local office of emergency management, identify the
31 person who heads the local office of emergency management, and furnish
32 additional information relating thereto as the ~~department~~ division requires.

33
34 SECTION 5811. Arkansas Code § 12-75-118(g)(2)(B), concerning local and
35 interjurisdictional offices of emergency management services, is amended to
36 read as follows:

1 (B) The emergency operations plan shall then be submitted
2 to the ~~department~~ division for approval prior to implementation.

3
4 SECTION 5812 Arkansas Code § 12-75-118(j)(1), concerning local and
5 interjurisdictional offices of emergency management services, is amended to
6 read as follows:

7 (j)(1) Local offices of emergency management shall operate and
8 maintain as a minimum an information systems link with the ~~department~~
9 division.

10
11 SECTION 5813. Arkansas Code § 12-75-119(a)(2)(C), concerning a
12 statewide mutual aid system, is amended to read as follows:

13 (C) The chief executive officer of the governing body
14 shall provide a copy of the resolution to the ~~Arkansas Department~~ Division of
15 Emergency Management within ten (10) days of the enactment of the resolution.

16
17 SECTION 5814. Arkansas Code § 12-75-119(c)(3), concerning a statewide
18 mutual aid system, is amended to read as follows:

19 (3)(A) A request for assistance is not required to be reported
20 to the ~~department~~ division in advance of or concurrent with the request.

21 (B) However, a request for assistance shall be reported to
22 the ~~department~~ division in writing as soon as practical.

23
24 SECTION 5815. Arkansas Code § 12-75-119(d)(3)(A), concerning a
25 statewide mutual aid system, is amended to read as follows:

26 (3)(A) An emergency responder from a participating emergency
27 jurisdiction responding to a request for assistance from another
28 participating emergency jurisdiction shall remain under the command control
29 of his or her home jurisdiction, including use of medical protocols, standard
30 operating procedures, and other protocols and procedures identified by the
31 ~~department~~ division.

32
33 SECTION 5816. Arkansas Code § 12-75-119(f)(1)(B) and (C), concerning a
34 statewide mutual aid system, are amended to read as follows:

35 (B) A request for reimbursement shall be made in
36 accordance with procedures developed by the Arkansas Homeland Security

1 Advisory Group and adopted by the ~~department~~ division as a rule under the
2 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

3 (C) The ~~department~~ division shall not provide
4 reimbursement for expenses associated with training exercises except in
5 accordance with applicable rules.

6
7 SECTION 5817. Arkansas Code § 12-75-126(b), concerning public safety
8 officers, is amended to read as follows:

9 (b) The Director of the ~~Arkansas Department~~ Division of Emergency
10 Management and persons he or she may designate from the state and local
11 offices of emergency management staffing patterns shall be sworn public
12 safety officers as defined and limited by this chapter.

13
14 SECTION 5818. Arkansas Code § 12-75-126(d)(1)(A), concerning public
15 safety officers, is amended to read as follows:

16 (d)(1)(A) The director may determine what constitutes ~~an Arkansas~~
17 ~~Department~~ the Division of Emergency Management uniform for ~~department~~
18 division personnel.

19
20 SECTION 5819. Arkansas Code § 12-75-126(d)(2), concerning public
21 safety officers, is amended to read as follows:

22 (2) The uniform may include a badge or identification card, or
23 both, of appropriate design and dimensions to identify local office of
24 emergency management personnel as bona fide emergency management workers
25 within their jurisdiction and ~~department~~ division personnel as bona fide
26 emergency workers for the state.

27
28 SECTION 5820. Arkansas Code § 12-75-126(e), concerning public safety
29 officers, is amended to read as follows:

30 (e) Any person issued or provided a badge, identification, or uniform
31 described in subsection (d) of this section shall wear, carry, or display it
32 at such times and places as shall be designated or required by the chief
33 executive of the local jurisdiction for local office of emergency management
34 personnel and by the director for ~~department~~ division personnel.

35
36 SECTION 5821. Arkansas Code § 12-75-129(a)(1)(B)(ii)(b), concerning

1 workers' compensation benefits for emergency responders, is amended to read
2 as follows:

3 (b) ~~Arkansas Department~~ Division of Emergency
4 Management; or

5
6 SECTION 5822. Arkansas Code § 12-75-129(f), concerning workers'
7 compensation benefits for emergency responders, is amended to read as
8 follows:

9 (f) An emergency responder shall be deemed duly registered and
10 qualified when he or she is a member of and has on file in either a local
11 office of emergency management or in the ~~Arkansas Department of Emergency~~
12 ~~Management~~ division the following information:

- 13 (1) Name and address;
14 (2) Date enrolled; and
15 (3) Class of service assigned.

16

17 SECTION 5823. Arkansas Code § 12-75-131(a)(1), concerning disaster
18 relief pay from the Arkansas Department of Emergency Management, is amended
19 to read as follows:

20 (a)(1) The ~~Arkansas Department~~ Division of Emergency Management is
21 authorized to provide special compensation to certain employees for each full
22 pay period of eighty (80) hours worked in a job which requires the provision
23 of on-site emergency disaster relief services in cases of wartime, human-
24 made, or natural disasters.

25

26 SECTION 5824. Arkansas Code § 12-75-131(a)(3)(B), concerning disaster
27 relief pay from the Arkansas Department of Emergency Management, is amended
28 to read as follows:

29 (B) Payment will be controlled through personnel actions
30 by the Director of the ~~Arkansas Department~~ Division of Emergency Management.

31

32 SECTION 5825. Arkansas Code § 12-75-132(a)-(c), concerning the
33 creation of the Arkansas Homeland Security Advisory Group, are amended to
34 read as follows:

35 (a) There is created an advisory body to the ~~Arkansas Department~~
36 Division of Emergency Management, to be known as the "Arkansas Homeland

1 Security Advisory Group”.

2 (b) The advisory group shall consist of representatives of federal,
3 state, and local agencies and professional associations as determined by the
4 Director of the ~~Arkansas Department~~ Division of Emergency Management. The
5 advisory group shall include, at a minimum, representatives of the following:

- 6 (1) ~~Arkansas Department~~ Division of Emergency Management;
7 (2) The Arkansas Ambulance Association;
8 (3) Arkansas Association of Chiefs of Police;
9 (4) Arkansas Association of Fire Chiefs;
10 (5) Arkansas Citizen Corps Point of Contact;
11 (6) ~~Arkansas Department~~ Division of Environmental Quality;
12 (7) Department of Health;
13 (8) Arkansas Emergency Management Association, Inc.;
14 (9) Arkansas Highway Police Division of the Arkansas Department
15 of Transportation;

16 (10) ~~Arkansas Livestock and Poultry Commission~~ Department of
17 Agriculture;

- 18 (11) Arkansas Municipal League;
19 (12) National Guard;
20 (13) 61st Civil Support Team of the Arkansas National Guard;
21 (14) Arkansas Sheriffs' Association;
22 (15) ~~Department~~ Division of Arkansas State Police;
23 (16) ~~State Plant Board~~;
24 ~~(16)~~ County Judges Association of Arkansas;
25 ~~(18)~~(17) Centers for Disease Control and Prevention;
26 ~~(19)~~(18) ~~Department~~ Division of Information Systems;
27 ~~(20)~~(19) Federal Bureau of Investigation;
28 ~~(21)~~(20) Health Resources and Services Administration of the
29 United States Department of Health and Human Services;
30 ~~(22)~~(21) United States Secret Service;
31 ~~(23)~~(22) United States Attorney for the Eastern District of
32 Arkansas; and
33 ~~(24)~~(23) United States Attorney for the Western District of
34 Arkansas.

35 (c) A representative of the ~~Arkansas Department~~ Division of Emergency
36 Management shall serve as chair of the advisory group.

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SECTION 5826. Arkansas Code § 12-75-132(f)(3), concerning the creation of the Arkansas Homeland Security Advisory Group, is amended to read as follows:

(3) The advisory group shall submit the report annually to the Director of the ~~Arkansas Department~~ Division of Emergency Management and to the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

SECTION 5827. Arkansas Code § 12-78-105(a), concerning implementation and equipment purchases by the Arkansas Department of Emergency Management, is amended to read as follows:

(a)(1) From funds appropriated therefor, the ~~Arkansas Department~~ Division of Emergency Management shall provide to eligible local offices of emergency management and key state agencies assigned an emergency role under the State of Arkansas Emergency Operations Plan matching grants not to exceed fifty percent (50%) of the cost of the acquisition of the emergency warning and communications equipment.

(2) The grant shall be awarded only for the acquisition of equipment for which the Director of the ~~Arkansas Department~~ Division of Emergency Management has granted specific approval.

SECTION 5828. Arkansas Code § 12-79-103(1), concerning definitions regarding the Arkansas Hazardous and Toxic Materials Emergency Notification Act, is repealed.

~~(1) "Director" means the Director of the Arkansas Department of Emergency Management established under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.;~~

SECTION 5829. The introductory language of Arkansas Code § 12-79-104(a), concerning the HAZMAT incident or accident reporting system, is amended to read as follows:

(a) The Director of the ~~Arkansas Department~~ Division of Emergency Management shall:

SECTION 5830. Arkansas Code § 12-82-104(a)(1)(A), concerning the

1 creation of the State Emergency Response Commission, is amended to read as
2 follows:

3 (A) The ~~directors~~ executive head of the Department of
4 Health, the ~~Arkansas Department~~ Division of Environmental Quality, the
5 ~~Department~~ Division of Arkansas State Police, the ~~Arkansas Department~~
6 Division of Emergency Management, the ~~Department~~ Division of Labor, the
7 Arkansas Fire Training Academy, and the Arkansas Department of
8 Transportation, and the Adjutant General, or their designated
9 representatives;

10

11 SECTION 5831. Arkansas Code § 12-83-102(1) and (2), concerning the
12 policy and purpose of the Emergency Volunteer Reserve Cadre, are amended to
13 read as follows:

14 (1) To establish within the ~~Arkansas Department~~ Division of
15 Emergency Management an Emergency Volunteer Reserve Cadre of persons trained
16 and experienced in certain functions related to disaster response and
17 recovery operations;

18 (2) To provide authority to the Director of the ~~Arkansas~~
19 ~~Department~~ Division of Emergency Management to call the emergency volunteer
20 reserve personnel into active service upon declaration of a state of disaster
21 emergency by the Governor or the President of the United States or when, in
22 the opinion of the director, a pending natural, technological, or national
23 emergency may require the immediate services of the personnel;

24

25 SECTION 5832. Arkansas Code § 12-83-104(a)(1), concerning recruitment,
26 service, deployment, and discharge by the Arkansas Department of Emergency
27 Management, is amended to read as follows:

28 (a)(1) The ~~Arkansas Department~~ Division of Emergency Management shall
29 establish a system to recruit personnel with special skills or experience
30 related to emergency response and recovery operations and provide initial
31 familiarization training and periodic proficiency training as necessary for
32 members of the Emergency Volunteer Reserve Cadre to ensure their readiness
33 for immediate deployment for response and recovery activities.

34

35 SECTION 5833. Arkansas Code § 12-83-104(b), concerning recruitment,
36 service, deployment, and discharge by the Arkansas Department of Emergency

1 Management, is amended to read as follows:

2 (b) The ~~department~~ division shall establish an administrative
3 management system to recruit and maintain qualified personnel and establish a
4 fiscal management system to ensure prompt and reasonable reimbursement of
5 authorized expenses.

6
7 SECTION 5834. Arkansas Code § 12-83-104(e), concerning recruitment,
8 service, deployment, and discharge by the Arkansas Department of Emergency
9 Management, is amended to read as follows:

10 (e) When called into active service by the Director of the ~~Arkansas~~
11 ~~Department~~ Division of Emergency Management, members of the cadre shall be
12 under the operational and administrative management of the ~~department~~
13 division and such employees of that office who may be designated to supervise
14 their duties.

15
16 SECTION 5835. Arkansas Code § 12-83-105(a)(1), concerning
17 reimbursement of the Emergency Volunteer Reserve Cadre by the Arkansas
18 Department of Emergency Management, is amended to read as follows:

19 (a)(1) Any persons seeking enrollment into the Emergency Volunteer
20 Reserve Cadre shall be notified that no salary, retainer, emoluments, or
21 other monetary reimbursement shall be made for their services, except
22 reimbursement for food, lodging, and travel utilizing a privately owned
23 vehicle when so authorized by the Director of the ~~Arkansas Department~~
24 Division of Emergency Management.

25
26 SECTION 5836. The introductory language of Arkansas Code § 12-86-204,
27 concerning the policies of the Arkansas Department of Emergency Management,
28 is amended to read as follows:

29 The Director of the ~~Arkansas Department~~ Division of Emergency
30 Management shall coordinate efforts with other state agencies and appropriate
31 organizations to:

32
33 SECTION 5837. Arkansas Code § 12-88-103(2)(C)(ii), concerning the
34 definition of "declared state disaster or emergency" under the Business Rapid
35 Response to State Disasters Facilitation Act, is amended to read as follows:

36 (ii) That the Director of the ~~Arkansas Department~~

1 Division of Emergency Management designates as a disaster or emergency upon
2 request of and notification by a registered business;

3
4 SECTION 5838. Arkansas Code § 14-14-1310(c)(3)(A), concerning the
5 filling of vacancies in elective offices, is amended to read as follows:

6 (3)(A) The county judge and the sheriff shall file the executive
7 order and the resolution with policy statement under subdivisions (c)(1) and
8 (2) of this section with the county clerk, and a file-marked copy shall be
9 provided to the Director of the ~~Arkansas Department~~ Division of Emergency
10 Management no later than sixty (60) days from the beginning of the elected
11 term of office.

12
13 SECTION 5839. Arkansas Code § 14-14-1314(a)(1)(A)(ii), concerning
14 constable training and uniform requirements, is amended to read as follows:

15 (ii) Each year after completing the certification
16 course required under subdivision (a)(1)(A)(i) of this section, he or she
17 shall satisfactorily complete sixteen (16) hours of training ~~provided~~
18 certified by the Arkansas Commission on Law Enforcement Standards and
19 Training.

20
21 SECTION 5840. The introductory language of Arkansas Code § 14-15-
22 308(a), concerning training and instruction for medicolegal death
23 investigators, coroners, and deputy coroners, is amended to read as follows:

24 (a) The ~~Arkansas Commission on~~ Division of Law Enforcement Standards
25 and Training, in coordination with the Department of Health, shall establish
26 a training curriculum for medicolegal death investigators, coroners, and
27 deputy coroners in Arkansas that consists of no less than sixteen (16) hours
28 nor more than forty (40) hours of instruction, including without limitation
29 courses on:

30
31 SECTION 5841. The introductory language of Arkansas Code § 14-15-
32 308(b), concerning training and instruction for medicolegal death
33 investigators, coroners, and deputy coroners, is amended to read as follows:

34 (b) The ~~commission~~ division shall:

35
36 SECTION 5842. Arkansas Code § 14-15-308(b)(2)(B), concerning training

1 and instruction for medicolegal death investigators, coroners, and deputy
2 coroners, is amended to read as follows:

3 (B) The ~~commission~~ division may receive funding for
4 coroner training through grants-in-aid, donations, and the County Coroners
5 Continuing Education Fund.

6
7 SECTION 5843. Arkansas Code § 15-45-211(b), concerning state parks as
8 bird sanctuaries, is amended to read as follows:

9 (b) It shall be unlawful for any person to trap, hunt, shoot, or
10 attempt to shoot or molest in any manner any bird or wild fowl or to rob
11 birds' nests or wild fowl's nests in these areas. However, if starlings or
12 similar birds are found to be congregating in such numbers in a particular
13 locality as in the opinion of the Department of Health constitutes a nuisance
14 or a menace to health or property, then officials of the ~~Department of Health~~
15 department, after giving three (3) days' notice of the time and place of the
16 meeting, shall meet with representatives of the Audubon Society, bird club,
17 garden club, or humane society, or with as many of those clubs as are found
18 to exist in the state, to discuss possible solutions to the problem. If, as a
19 result of the meeting, no satisfactory alternative is found to abate the
20 nuisance, then the birds may be destroyed in such numbers and in such manner
21 as is deemed advisable by the ~~Department of Health~~ department under the
22 supervision of the Director of the ~~Department~~ Division of Arkansas State
23 Police.

24

25 SECTION 5844. Arkansas Code § 16-90-706(a)(4), concerning the
26 logistical support and powers of the Crime Victims Reparations Board, is
27 amended to read as follows:

28 (4)(A) The board shall be provided such office, support staff,
29 and secretarial services as necessary by the ~~office of the Attorney General~~
30 Department of Public Safety.

31 (B) The support staff and secretarial services described
32 in subdivision (a)(4)(A) of this section may also be assigned by the ~~Attorney~~
33 General Secretary of the Department of Public Safety to engage in additional
34 ~~legal~~ work in other areas that do not involve crime victims reparations.

35

36 SECTION 5845. Arkansas Code § 16-90-707(a), concerning the annual

1 report by the Crime Victims Reparations Board, is amended to read as follows:

2 (a) The Crime Victims Reparations Board shall prepare and transmit
3 annually a report of its activities to the ~~Governor~~ Secretary of the
4 Department of Public Safety.

5
6 SECTION 5846. Arkansas Code § 16-90-715 is amended to read as follows:

7 16-90-715. Action by state against convicted person for recovery of
8 reparations.

9 (a)(1) Whenever any person is convicted of a crime and an order for
10 the payment of reparations is or has been made under this subchapter for a
11 personal injury or death resulting from the act or omission constituting the
12 crime for which conviction was had, the ~~Attorney General~~ Secretary of the
13 Department of Public Safety may institute a civil action against the
14 convicted person for the recovery of all or any part of the reparations paid.

15 (2)(A) The suit shall be instituted in the circuit court having
16 jurisdiction in the county in which the person resides or is found or in
17 Pulaski County.

18 (B) The circuit court shall have jurisdiction to hear,
19 determine, and render judgment in the action.

20 (3)(A) Any amount recovered under this subsection shall be
21 credited to the Crime Victims Reparations Revolving Fund.

22 (B) If an amount greater than that paid pursuant to the
23 order for payment of reparations is recovered and collected in the action,
24 the Crime Victims Reparations Board shall pay the balance to the claimant.

25 (b) The board shall provide the ~~Attorney General~~ secretary with such
26 information, data, and reports as he or she may require to institute actions
27 in accordance with this section.

28 (c) The secretary may request the assistance of the Attorney General
29 in instituting a civil action against the convicted person for the recovery
30 of all or any part of the reparations paid.

31
32 SECTION 5847. Arkansas Code § 17-39-102(1), concerning the definition
33 of "intern" under the Polygraph Examiners Licensing Act, is amended to read
34 as follows:

35 (1) "Intern" means a person who holds a valid intern polygraph
36 examiner license issued by the Director of the ~~Department~~ Division of

1 Arkansas State Police;

2

3 SECTION 5848. Arkansas Code § 17-39-103(b), concerning penalties
4 regarding licensed polygraph examiner, is amended to read as follows:

5 (b) It is unlawful for a person to conduct a polygraph examination in
6 the State of Arkansas unless that person holds a valid license as a polygraph
7 examiner or intern that is issued by the Director of the ~~Department~~ Division
8 of Arkansas State Police.

9

10 SECTION 5849. Arkansas Code § 17-39-104(a), concerning an injunction
11 for the violation of the Polygraph Examiners Licensing Act, is amended to
12 read as follows:

13 (a) If a person violates this subchapter or subchapter 2, the Director
14 of the ~~Department~~ Division of Arkansas State Police, through the Attorney
15 General, may apply in any circuit court of competent jurisdiction for an
16 order enjoining the violation or for an order enforcing compliance with this
17 subchapter or subchapter 2.

18

19 SECTION 5850. Arkansas Code § 17-39-106(a), concerning the powers and
20 duties of the Director of the Department of Arkansas State Police under the
21 Polygraph Examiners Licensing Act, is amended to read as follows:

22 (a) The Director of the ~~Department~~ Division of Arkansas State Police
23 may perform the functions and duties enumerated in this subchapter or
24 subchapter 2 with respect to the licensing of polygraph examiners and interns
25 and perform all other acts incidental and necessary to the proper performance
26 of the functions and duties as prescribed in this subchapter or subchapter 2.

27

28 SECTION 5851. Arkansas Code § 17-39-110 is amended to read as follows:

29 17-39-110. Director of the ~~Department~~ Division of Arkansas State
30 Police – Designee.

31 The Director of the ~~Department~~ Division of Arkansas State Police may
32 designate a person on his or her staff to administer and carry out the
33 provisions of this subchapter or subchapter 2.

34

35 SECTION 5852. Arkansas Code § 17-39-201 is amended to read as follows:

36 17-39-201. License required.

1 It is unlawful for a person, including a city, county, or state
2 employee, to administer polygraph examinations or hold himself or herself out
3 as a polygraph examiner or intern without a polygraph examiner license or
4 intern polygraph examiner license approved and issued by the Director of the
5 ~~Department~~ Division of Arkansas State Police.

6
7 SECTION 5853. Arkansas Code § 17-39-202(4), concerning qualifications
8 for a polygraph examiner license or an intern polygraph examiner license, is
9 amended to read as follows:

10 (4) Is a graduate of a polygraph examiners course approved by
11 the Director of the ~~Department~~ Division of Arkansas State Police and has
12 satisfactorily completed an internship of not less than six (6) months;

13
14 SECTION 5854. Arkansas Code § 17-39-203 is amended to read as follows:
15 17-39-203. Initial polygraph examiner license or intern polygraph
16 examiner license application.

17 (a) An application for an initial polygraph examiner license or intern
18 polygraph examiner license shall be made to the Director of the ~~Department~~
19 Division of Arkansas State Police on forms prescribed by the director and
20 shall be accompanied by the required fee as set out in § 17-39-207.

21 (b) The burden is on the applicant to provide sufficient information
22 to bring himself or herself within the licensing standards and allow the
23 director to determine if the applicant is qualified to hold a license under
24 this subchapter and subchapter 1.

25
26 SECTION 5855. The introductory language of Arkansas Code § 17-39-
27 204(a), concerning a polygraph examiner license, is amended to read as
28 follows:

29 (a) In addition to other application requirements, a polygraph
30 examiner licensee or an intern polygraph examiner licensee who does not
31 maintain a place of business in Arkansas shall file with the Director of the
32 ~~Department~~ Division of Arkansas State Police an irrevocable consent that:

33
34 SECTION 5856. The introductory language of Arkansas Code § 17-39-205,
35 concerning a polygraph examiner license in another state or territory, is
36 amended to read as follows:

1 An applicant who is a polygraph examiner licensed under the laws of
2 another state or territory of the United States may be issued a two-year
3 license by the Director of the ~~Department~~ Division of Arkansas State Police
4 upon the production of satisfactory proof that the applicant:

5
6 SECTION 5857. Arkansas Code § 17-39-206(a)(1), concerning intern
7 polygraph examiner license, is amended to read as follows:

8 (a)(1) The Director of the ~~Department~~ Division of Arkansas State
9 Police shall issue an intern polygraph examiner license to an applicant,
10 provided that he or she submits a properly completed application, meets the
11 licensing requirements, and pays the required fee under § 17-39-207.

12
13 SECTION 5858. Arkansas Code § 17-39-208 is amended to read as follows:
14 17-39-208. Display of license and signature.

15 A polygraph examiner license, an intern polygraph examiner license, or
16 the photo identification card issued by the Director of the ~~Department~~
17 Division of Arkansas State Police shall be prominently displayed at the place
18 of business of the licensee or worn on his or her person.

19
20 SECTION 5859. Arkansas Code § 17-39-209 is amended to read as follows:
21 17-39-209. Notification of address change.

22 Notice in writing shall be given to the Director of the ~~Department~~
23 Division of Arkansas State Police by the polygraph examiner licensee or the
24 intern of any change of principal business location, telephone number, or
25 email address within thirty (30) days of the time he or she changes location,
26 telephone number, or email address.

27
28 SECTION 5860. Arkansas Code § 17-39-210(a), concerning expiration and
29 renewal of polygraph examiner license, is amended to read as follows:

30 (a) Each polygraph examiner license shall be issued for the term of
31 two (2) years and, unless suspended or revoked, may be renewed with
32 documentation prescribed by the Director of the ~~Department~~ Division of
33 Arkansas State Police.

34
35 SECTION 5861. The introductory language of Arkansas Code § 17-39-211,
36 concerning grounds for denial, suspension, or revocation of intern polygraph

1 examiner license, is amended to read as follows:

2 The Director of the ~~Department~~ Division of Arkansas State Police may
3 deny, suspend, or revoke a polygraph examiner license or an intern polygraph
4 examiner license on any one (1) or more of the following grounds:

5

6 SECTION 5862. Arkansas Code § 17-39-212(a), concerning criminal
7 background checks in regards to a polygraph examiner license, is amended to
8 read as follows:

9 (a) Each first-time applicant and applicant for license renewal shall
10 be required to apply to the Identification Bureau of the ~~Department~~ Division
11 of Arkansas State Police for a state and national criminal background check
12 to be conducted by the Identification Bureau of the ~~Department~~ Division of
13 Arkansas State Police and the Federal Bureau of Investigation.

14

15 SECTION 5863. Arkansas Code § 17-39-212(c), concerning criminal
16 background checks in regards to a polygraph examiner license, is amended to
17 read as follows:

18 (c) The applicant shall sign a release of information to the Director
19 of the ~~Department~~ Division of Arkansas State Police and shall be responsible
20 for the payment of any fee associated with the state and national criminal
21 background check.

22

23 SECTION 5864. Arkansas Code § 17-39-213(a)(1)(A), concerning the
24 proceedings regarding denial, suspension, or revocation of polygraph examiner
25 license, is amended to read as follows:

26 (a)(1)(A) When the Director of the ~~Department~~ Division of Arkansas
27 State Police seeks to deny an application or suspend or revoke a license
28 issued under this subchapter or subchapter 1, the director shall notify the
29 applicant or licensee in person or by certified mail, return receipt
30 requested, at the last address supplied to the director by the applicant or
31 licensee.

32

33 SECTION 5865. Arkansas Code § 17-39-214(a), concerning an appeal of a
34 denial, suspension, or revocation of a polygraph examiner license, is amended
35 to read as follows:

36 (a) An applicant or licensee dissatisfied with the action of the

1 Director of the ~~Department~~ Division of Arkansas State Police in denying,
2 suspending, or revoking a license may appeal the decision of the director
3 under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
4

5 SECTION 5866. Arkansas Code § 17-39-215 is amended to read as follows:
6 17-39-215. Rules.

7 The Director of the ~~Department~~ Division of Arkansas State Police may
8 promulgate rules to permit the efficient administration of this subchapter or
9 subchapter 1.
10

11 SECTION 5867. Arkansas Code § 17-39-303 is amended to read as follows:
12 17-39-303. Applicant burden of proof.

13 An applicant who seeks licensure under this subchapter as a certified
14 voice stress analysis examiner has the burden to provide sufficient
15 information to bring himself or herself within the licensing standards that
16 would allow the Director of the ~~Department~~ Division of Arkansas State Police
17 to determine if the applicant is qualified to hold the license.
18

19 SECTION 5868. The introductory language of Arkansas Code § 17-39-304,
20 concerning application for license, proof, and fee for a certified voice
21 stress analysis examiner, is amended to read as follows:

22 A person who desires to be licensed as a certified voice stress
23 analysis examiner and conduct voice stress analysis examinations within this
24 state shall apply for licensure to the Director of the ~~Department~~ Division of
25 Arkansas State Police and shall submit with the application documentation
26 that the applicant:
27

28 SECTION 5869. Arkansas Code § 17-39-304(7), concerning application for
29 license, proof, and fee for a certified voice stress analysis examiner, is
30 amended to read as follows:

31 (7) Has successfully completed a course of training that has
32 been approved by the Director of the ~~Department~~ Division of Arkansas State
33 Police offering a certification in the operation of the voice stress analysis
34 machine and submits a copy of the certification with the application; and
35

36 SECTION 5870. Arkansas Code § 17-39-305(b)(1), concerning fees for a

1 certified voice stress analysis examiner license, is amended to read as
2 follows:

3 (b)(1) All fees received by the Director of the ~~Department~~ Division of
4 Arkansas State Police under this subchapter are nonrefundable and shall be
5 deposited into the State Treasury as special revenues to the credit of the
6 ~~Department~~ Division of Arkansas State Police Fund.

7
8 SECTION 5871. The introductory language of Arkansas Code § 17-39-306,
9 concerning grounds for denying, suspending, or revoking a voice stress
10 analysis examiner license, is amended to read as follows:

11 The Director of the ~~Department~~ Division of Arkansas State Police may
12 deny, suspend, or revoke a license of a certified voice stress analysis
13 examiner on one (1) or more of the following grounds:

14
15 SECTION 5872. Arkansas Code § 17-39-307 is amended to read as follows:
16 17-39-307. Rules.

17 The Director of the ~~Department~~ Division of Arkansas State Police may
18 promulgate rules to permit the efficient administration of this subchapter.

19
20 SECTION 5873. Arkansas Code § 17-39-309(a), concerning a criminal
21 background check for an applicant for renewal as a certified voice stress
22 analysis examiner, is amended to read as follows:

23 (a)(1) Each first-time applicant and each applicant for renewal of
24 licensure as a certified voice stress analysis examiner shall apply to the
25 ~~Department~~ Division of Arkansas State Police for a state and national
26 criminal background check to be conducted by the ~~department~~ division and the
27 Federal Bureau of Investigation.

28 (2) Criminal history records from the Arkansas Crime Information
29 Center shall be available to the Director of the ~~Department~~ Division of
30 Arkansas State Police for the review of an applicant's qualifications.

31
32 SECTION 5874. Arkansas Code § 17-39-309(d), concerning a criminal
33 background check for an applicant for renewal as a certified voice stress
34 analysis examiner, is amended to read as follows:

35 (d) Upon completion of the state and national criminal background
36 check, the ~~department~~ division shall forward to the director all releasable

1 information obtained concerning the applicant.

2

3 SECTION 5875. Arkansas Code § 17-39-311(a), concerning an injunction
4 for violation of the subchapter, is amended to read as follows:

5 (a) If a person violates this subchapter, the Director of the
6 ~~Department~~ Division of Arkansas State Police, through the Attorney General,
7 may apply in the circuit court having jurisdiction for an order enjoining the
8 violation or for an order enforcing compliance with this subchapter.

9

10 SECTION 5876. Arkansas Code § 17-39-313(a), concerning the
11 administration and the powers and duties of the Department of Arkansas State
12 Police, is amended to read as follows:

13 (a) The Director of the ~~Department~~ Division of Arkansas State Police
14 may perform the functions and duties enumerated within this subchapter with
15 respect to the licensing of certified voice stress analysis examiners and
16 perform all other acts incidental and necessary to the proper performance of
17 the functions and duties as prescribed in this subchapter.

18

19 SECTION 5877. Arkansas Code § 17-40-102(8)(B), concerning the
20 definition of "assistant training administrator" under the Private Security
21 Agency, Private Investigator, and School Security Licensing and Credentialing
22 Act, is amended to read as follows:

23 (B) The assistant training administrator shall certify to
24 the Director of the ~~Department~~ Division of Arkansas State Police that the
25 required training has been completed;

26

27 SECTION 5878. Arkansas Code § 17-40-102(14), concerning the definition
28 of "credential" under the Private Security Agency, Private Investigator, and
29 School Security Licensing and Credentialing Act, is amended to read as
30 follows:

31 (14) "Credential" means an authorization granted by the
32 ~~Department~~ Division of Arkansas State Police to an individual to perform the
33 duties of a private investigator, alarm systems monitor, alarm systems
34 apprentice, alarm systems technician, alarms systems agent, private security
35 officer, commissioned security officer, commissioned school security officer,
36 assistant training administrator, training administrator, training

1 instructor, manager, or branch office manager;

2
3 SECTION 5879. Arkansas Code § 17-40-103(b), concerning persons exempt
4 under the Private Security Agency, Private Investigator, and School Security
5 Licensing and Credentialing Act, is amended to read as follows:

6 (b)(1) If the security department of a private business or school
7 hires or employs an individual in the capacity of a commissioned security
8 officer or commissioned school security officer, the security department of
9 the private business or school is not required to make application to the
10 ~~Department~~ Division of Arkansas State Police for any license under this
11 chapter.

12 (2) However, the private business or school is required to be
13 recognized by the Director of the ~~Department~~ Division of Arkansas State
14 Police as a private business or school for the purpose of employing the
15 commissioned security officer or commissioned school security officer.

16
17 SECTION 5880. Arkansas Code § 17-40-105 is amended to read as follows:
18 17-40-105. Notice of violation.

19 The Director of the ~~Department~~ Division of Arkansas State Police shall
20 not deny, suspend, revoke, or fine any person required to be licensed,
21 credentialed, or commissioned under this chapter unless the person has been
22 notified of the alleged violation of this chapter within three hundred sixty-
23 five (365) days after the occurrence of the alleged violation.

24
25 SECTION 5881. Arkansas Code § 17-40-106(a), concerning exclusive
26 regulation and authority of a political subdivision, is amended to read as
27 follows:

28 (a) The regulation of investigation, security, and alarm systems
29 companies is exclusive to the Director of the ~~Department~~ Division of Arkansas
30 State Police.

31
32 SECTION 5882. Arkansas Code § 17-40-204 is amended to read as follows:
33 17-40-204. Administration.

34 (a) The Director of the ~~Department~~ Division of Arkansas State Police
35 shall perform such duties as may be prescribed by the director and shall have
36 no financial, personal, or business interests in an entity licensed under

1 this chapter.

2 (b) All legal processes and all documents required by law shall be
3 served upon the director or his or her designee or filed within the
4 ~~Department~~ Division of Arkansas State Police.

5

6 SECTION 5883. The introductory language of Arkansas Code § 17-40-
7 207(a), concerning the powers and duties of the Director of the Department of
8 Arkansas State Police, is amended to read as follows:

9 (a) The Director of the ~~Department~~ Division of Arkansas State Police
10 shall have the following powers and duties:

11

12 SECTION 5884. Arkansas Code § 17-40-208(a), concerning the
13 establishment of minimum training requirements for personnel by the Director
14 of the Department of Arkansas State Police, is amended to read as follows:

15 (a) The Director of the ~~Department~~ Division of Arkansas State Police
16 shall establish minimum training requirements under this chapter for a
17 private security officer, a commissioned security officer, and a commissioned
18 school security officer.

19

20 SECTION 5885. Arkansas Code § 17-40-209(b) and (c), concerning the
21 fees and disposition of funds for investigating and credentialing private
22 investigators or licensing private security agencies, are amended to read as
23 follows:

24 (b) To assure that the intent is carried out, the expenditure for
25 personal services and operating expenses associated with investigating and
26 licensing, credentialing, or commissioning of individuals and agencies
27 required to be licensed, credentialed, or commissioned under this chapter
28 shall be limited in the aggregate to the amount deposited into the State
29 Treasury to the credit of the ~~Department~~ Division of Arkansas State Police
30 Fund from license, credential, and commission fees of the individuals and
31 agencies.

32 (c) In order to provide sufficient revenues to carry out the duties
33 and functions prescribed by this chapter, the Director of the ~~Department~~
34 Division of Arkansas State Police shall levy fees for licenses, credentials,
35 and commissions as authorized by this chapter as determined by the director.

36

1 SECTION 5886. Arkansas Code § 17-40-209(e)(1), concerning the fees and
2 disposition of funds for investigating and credentialing private
3 investigators or licensing private security agencies, is amended to read as
4 follows:

5 (e)(1) All funds received by the director shall be deposited into the
6 State Treasury as special revenues to the credit of the ~~Department~~ Division
7 of Arkansas State Police Fund.

8
9 SECTION 5887. Arkansas Code § 17-40-301(g), concerning unlawful acts
10 regarding private investigators, is amended to read as follows:

11 (g) A person shall not program an automatic dialing device to call a
12 law enforcement agency, fire department, emergency health service, or a
13 state, city, or county agency without the prior approval of the Director of
14 the ~~Department~~ Division of Arkansas State Police.

15
16 SECTION 5888. The introductory language of Arkansas Code § 17-40-
17 302(a), concerning fees for private investigators, is amended to read as
18 follows:

19 (a) The Director of the ~~Department~~ Division of Arkansas State Police
20 may assess fees under this chapter as follows:

21
22 SECTION 5889. Arkansas Code § 17-40-306(a)(4), concerning license,
23 credential, and applicant qualifications for a private investigator, is
24 amended to read as follows:

25 (4) Be in compliance with any other reasonable qualifications
26 that the Director of the ~~Department~~ Division of Arkansas State Police may set
27 by rule;

28
29 SECTION 5890. Arkansas Code § 17-40-306(d)(1)(B), concerning license,
30 credential, and applicant qualifications for a private investigator, is
31 amended to read as follows:

32 (B) A Class A misdemeanor involving theft, sexual
33 offenses, violence, an element of dishonesty, or a crime against a person as
34 determined by the ~~Department of Arkansas State Police~~ division under
35 subsection (e) of this section; or

36

1 SECTION 5891. Arkansas Code § 17-40-306(e), concerning license,
2 credential, and applicant qualifications for a private investigator, is
3 amended to read as follows:

4 (e) The ~~department~~ Department of Arkansas State Police or the Division
5 of Arkansas State Police shall promulgate rules within ninety (90) days of
6 May 23, 2016, that determine the offenses under subdivision (d)(1)(B) of this
7 section that constitute a Class A misdemeanor involving theft, sexual
8 offenses, violence, an element of dishonesty, or a crime against a person.

9
10 SECTION 5892. The introductory language of Arkansas Code § 17-40-
11 307(a), concerning a license, credential, application, and examination for a
12 private investigator, is amended to read as follows:

13 (a) An application for a license or credential under this chapter
14 shall be in the form prescribed by the Director of the ~~Department~~ Division of
15 Arkansas State Police and shall include:

16
17 SECTION 5893. Arkansas Code § 17-40-307(e)(1)(A), concerning a
18 license, credential, application, and examination for a private investigator,
19 is amended to read as follows:

20 (e)(1)(A) Each first-time applicant and applicant for license or
21 credential renewal shall apply to the ~~Department~~ Division of Arkansas State
22 Police for a state and national criminal background check to be conducted by
23 the ~~department~~ division and the Federal Bureau of Investigation.

24
25 SECTION 5894. Arkansas Code § 17-40-307(e)(4), concerning a license,
26 credential, application, and examination for a private investigator, is
27 amended to read as follows:

28 (4) Upon completion of the state and national criminal
29 background check, the ~~department~~ division shall forward to the director all
30 releasable information obtained concerning the applicant.

31
32 SECTION 5895. Arkansas Code § 17-40-308(a), concerning a license or
33 credential, and insurance prerequisite for a private investigator, is amended
34 to read as follows:

35 (a) A Class B, Class C, or Class G license shall not be issued to an
36 applicant under this chapter unless the applicant files with the Director of

1 the ~~Department~~ Division of Arkansas State Police proof of a policy of
2 continuing public liability insurance in a sum not less than five hundred
3 thousand dollars (\$500,000), conditioned to compensate any person for
4 damages, including, but not limited to, bodily injury caused by wrongful acts
5 of the principal or its servants, officers, agents, and employees in the
6 conduct of any business licensed by this chapter.

7
8 SECTION 5896. Arkansas Code § 17-40-310 is amended to read as follows:
9 17-40-310. License and credential – Form.

10 A license or credential when issued shall be in the form prescribed by
11 the Director of the ~~Department~~ Division of Arkansas State Police and shall
12 include the:

- 13 (1) Name of the licensee or credential holder;
14 (2) Name under which the licensee or credential holder is to
15 operate; and
16 (3) License or credential number and date of expiration.

17
18 SECTION 5897. Arkansas Code § 17-40-312 is amended to read as follows:
19 17-40-312. License and credential – Termination.

20 The Director of the ~~Department~~ Division of Arkansas State Police shall
21 prescribe by rule the procedure under which a license or credential issued
22 under this chapter may be terminated by the licensee or credential holder.

23
24 SECTION 5898. Arkansas Code § 17-40-313(a)(2), concerning the
25 expiration and renewal of a license, is amended to read as follows:

26 (2) To renew an unexpired license or credential, the licensee or
27 the credential holder shall apply for renewal on a form prescribed by the
28 Director of the ~~Department~~ Division of Arkansas State Police and pay the
29 renewal fee prescribed by this chapter.

30
31 SECTION 5899. Arkansas Code § 17-40-314(b)(2), concerning managers of
32 the business of each licensee, is amended to read as follows:

33 (2) Made a satisfactory showing to the Director of the
34 ~~Department~~ Division of Arkansas State Police that the person has the
35 qualifications prescribed by this chapter.

36

1 SECTION 5900. Arkansas Code § 17-40-315(a), concerning the duties of
2 licensee or credential holders, is amended to read as follows:

3 (a) Each licensee or credential holder shall maintain a record
4 containing the information relative to his or her employees as may be
5 prescribed by the Director of the ~~Department~~ Division of Arkansas State
6 Police.

7
8 SECTION 5901. Arkansas Code § 17-40-316(a), concerning the change of
9 address, telephone number, email address, name, or officers, or partners for
10 licenses and credentials, is amended to read as follows:

11 (a) A licensee or credential holder shall notify the Director of the
12 ~~Department~~ Division of Arkansas State Police within fourteen (14) days after
13 a change of the licensee's or credential holder's name, address, telephone
14 number, email address, or officer or partner.

15
16 SECTION 5902. Arkansas Code § 17-40-317 is amended to read as follows:

17 17-40-317. Licensees and credential holders – Windup period.

18 When the individual on the basis of whose qualifications a license or
19 credential under this chapter has been obtained ceases to be connected with
20 the business for which a license or credential under this chapter is
21 required, the business may be carried on for a temporary period under such
22 terms and conditions as the Director of the ~~Department~~ Division of Arkansas
23 State Police shall provide by rule.

24
25 SECTION 5903. Arkansas Code § 17-40-318 is amended to read as follows:

26 17-40-318. Training requirements for alarm systems company.

27 The Director of the ~~Department~~ Division of Arkansas State Police shall
28 promulgate rules regarding the training requirements for alarm systems
29 companies, alarm systems apprentices, alarm systems monitors, alarm systems
30 technicians, and alarm systems agents.

31
32 SECTION 5904. Arkansas Code § 17-40-325(a), concerning a license or
33 credential application, is amended to read as follows:

34 (a) A person who is employed as a private investigator, a manager, a
35 private security officer, an alarm systems technician, an alarm systems
36 monitor, an alarm systems apprentice, or an alarm systems agent and who is

1 required to be licensed or credentialed under this chapter shall submit a
2 properly completed application for the license or credential to the Director
3 of the ~~Department~~ Division of Arkansas State Police within fourteen (14)
4 calendar days after the commencement of employment.

5
6 SECTION 5905. Arkansas Code § 17-40-329(a)(1), concerning issuance of
7 a credential photo identification card, transfer and fee, and cancellation,
8 is amended to read as follows:

9 (a)(1) A credential photo identification card of a size, a design, and
10 content as may be determined by the Director of the ~~Department~~ Division of
11 Arkansas State Police shall be issued by the ~~Department~~ Division of Arkansas
12 State Police under this chapter.

13
14 SECTION 5906. Arkansas Code § 17-40-330 is amended to read as follows:

15 17-40-330. Authority to issue commission to carry a firearm.

16 The Director of the ~~Department~~ Division of Arkansas State Police may
17 determine the qualifications for and issue an authorization to carry a
18 firearm in the form of a commission to a qualified security officer or
19 qualified school security officer that shall be held during the course of his
20 or her employment.

21
22 SECTION 5907. Arkansas Code § 17-40-337(a)(4), concerning the
23 commission and applicant qualifications for a commissioned security officer
24 or a commissioned school security officer, is amended to read as follows:

25 (4) Does not meet the qualifications for a commission as
26 determined by the Director of the ~~Department~~ Division of Arkansas State
27 Police;

28
29 SECTION 5908. Arkansas Code § 17-40-337(a)(6)(A), concerning the
30 commission and applicant qualifications for a commissioned security officer
31 or a commissioned school security officer, is amended to read as follows:

32 (6)(A) Has not successfully completed a state and national
33 criminal background check to be conducted by the ~~Department~~ Division of
34 Arkansas State Police and the Federal Bureau of Investigation.

35
36 SECTION 5909. Arkansas Code § 17-40-339(a), concerning notice to law

1 enforcement regarding commissioned security officers, is amended to read as
2 follows:

3 (a) The Director of the ~~Department~~ Division of Arkansas State Police
4 shall notify the sheriff of the county and the chief of police of the city,
5 if applicable, in which the applicant resides of the application for a
6 commission to be a commissioned security officer or a commissioned school
7 security officer.

8

9 SECTION 5910. Arkansas Code § 17-40-340 is amended to read as follows:
10 17-40-340. Commission – Issuance of identification card.

11 Each commission as a commissioned security officer or a commissioned
12 school security officer issued under this chapter shall be in the form of a
13 commission photo identification card designed by the Director of the
14 ~~Department~~ Division of Arkansas State Police that shall identify:

- 15 (1) The commission holder;
16 (2) The security department of a private business or school by
17 whom the commission holder is employed;
18 (3) A photograph of the credential holder; and
19 (4) A credential number and date of expiration.

20

21 SECTION 5911. Arkansas Code § 17-40-342 is amended to read as follows:
22 17-40-342. Commission – Termination.

23 If the holder of a commission terminates his or her employment with the
24 licensee or the security department of a private business or school, he or
25 she shall return the commission photo identification card to the Director of
26 the ~~Department~~ Division of Arkansas State Police within seven (7) days of the
27 date of termination of the employment.

28

29 SECTION 5912. Arkansas Code § 17-40-344 is amended to read as follows:
30 17-40-344. Commission – Denial, suspension, or revocation.

31 The Director of the ~~Department~~ Division of Arkansas State Police may
32 deny, suspend, or revoke a commission as a commissioned school security
33 officer or a commission as a commissioned security officer if the applicant
34 for a commission or the commission holder is indicted or arrested for one (1)
35 of the following offenses or a comparable offense in another state:

36

- (1) A felony;

- 1 (2) A Class A misdemeanor;
- 2 (3) A crime involving an act of violence;
- 3 (4) A crime involving the use of a firearm;
- 4 (5) A crime involving the use of alcohol or drugs while in
- 5 possession of a firearm;
- 6 (6) A crime that results in the person's disqualifying himself
- 7 or herself from legally possessing a firearm under state or federal law; or
- 8 (7) A crime involving moral turpitude.
- 9

10 SECTION 5913. Arkansas Code § 17-40-349(a), concerning the suspension

11 of a license, credential, or commission for nonpayment of child support, is

12 amended to read as follows:

13 (a) The Director of the ~~Department~~ Division of Arkansas State Police

14 shall suspend a license, credential, or commission issued under this chapter

15 if the ~~Department~~ Division of Arkansas State Police is notified by the Office

16 of Child Support Enforcement that the licensee, credential holder, or

17 commission holder has not paid his or her required child support.

18

19 SECTION 5914. Arkansas Code § 17-40-349(c)(2), concerning the

20 suspension of a license, credential, or commission for nonpayment of child

21 support, is amended to read as follows:

22 (2) Notification from the office to the ~~department~~ division.

23

24 SECTION 5915. The introductory language of Arkansas Code § 17-40-

25 350(a), concerning grounds for disciplinary action by the Director of the

26 Department of Arkansas State Police, is amended to read as follows:

27 (a) The Director of the ~~Department~~ Division of Arkansas State Police

28 may suspend or revoke a license, credential, or commission or issue a fine in

29 an amount not to exceed one thousand dollars (\$1,000) for each violation of

30 this chapter, or both, or the director may deny an application for a license,

31 credential, or commission, or renewal thereof, on proof that the applicant,

32 licensee, commission holder, or credential holder:

33

34 SECTION 5916. Arkansas Code § 17-40-351(a), concerning the procedure

35 for denial of a license, credential, or commission, is amended to read as

36 follows:

1 (a) The Director of the ~~Department~~ Division of Arkansas State Police
2 may deny the issuance of a license, credential, or commission under this
3 chapter.

4
5 SECTION 5917. Arkansas Code § 17-40-352(a), concerning the record of
6 denial, revocation, or suspension of a license, credential, or commission, is
7 amended to read as follows:

8 (a) In the event that the Director of the ~~Department~~ Division of
9 Arkansas State Police denies the application or suspends or revokes a
10 license, credential, or commission, or if a fine is imposed, the director's
11 decision shall be in writing.

12
13 SECTION 5918. Arkansas Code § 17-40-353(1), concerning reciprocity for
14 a private investigator licensed or credentialed by another state, is amended
15 to read as follows:

16 (1) The other state or territory grants similar reciprocity to
17 credential holders of this state that coincides with the records on private
18 investigator credential reciprocity maintained by the ~~Department~~ Division of
19 Arkansas State Police;

20
21 SECTION 5919. Arkansas Code § 17-40-353(4), concerning reciprocity for
22 a private investigator licensed or credentialed by another state, is amended
23 to read as follows:

24 (4) The applicant meets other reasonable qualifications as may
25 be adopted by the Director of the ~~Department~~ Division of Arkansas State
26 Police.

27
28 SECTION 5920. Arkansas Code § 17-40-354 is amended to read as follows:
29 17-40-354. Fingerprint cards.

30 (a) The Identification Bureau of the ~~Department~~ Division of Arkansas
31 State Police and the Federal Bureau of Investigation may retain the
32 fingerprints collected for each individual who is fingerprinted under this
33 chapter.

34 (b) The Director of the ~~Department~~ Division of Arkansas State Police
35 may enroll a person issued a license, credential, or commission under this
36 chapter in a program that electronically notifies law enforcement if the

1 person has been arrested.

2

3 SECTION 5921. Arkansas Code § 19-6-404 is amended to read as follows:

4 19-6-404. ~~Department~~ Division of Arkansas State Police Fund.

5 The ~~Department~~ Division of Arkansas State Police Fund shall consist of:

6 (1) Those special revenues as specified in § 19-6-301(1), (5),
7 (7), (8), (38)-(40), (94), (150), (168), (175), (184)-(186), (190), (218)-
8 (220), (222), (226), (227), (234), and (252);

9 (2) Moneys transferred or deposited from the State
10 Administration of Justice Fund;

11 (3) Those general revenues as may be provided by law, there to
12 be used for the maintenance, operation, and improvement of the ~~Department~~
13 Division of Arkansas State Police in carrying out the functions, powers, and
14 duties as stated in § 12-8-106 or other duties imposed by law upon the
15 department;

16 (4) Any revenues credited to the ~~Department~~ Division of Arkansas
17 State Police Fund under the ~~Department~~ Division of Arkansas State Police
18 Headquarters Facilities and Equipment Financing Act, § 12-8-601 et seq.; and

19 (5) Federal reimbursements received for eligible expenditures by
20 the various programs of the ~~department~~ division made payable from the
21 ~~Department~~ Division of Arkansas State Police Fund.

22

23 SECTION 5922. Arkansas Code § 19-11-605 is amended to read as follows:

24 19-11-605. Authority to transfer excess military property to state
25 and local agencies – Service charge.

26 The Law Enforcement Support Office of the Department of ~~Career~~
27 ~~Education~~ Public Safety may:

28 (1) Cooperate with the federal government under 10 U.S.C. §
29 2576a in the transfer of excess military property to state and local law
30 enforcement agencies:

31 (A) Whose primary function is the enforcement of
32 applicable federal, state, and local laws; and

33 (B) Whose compensated law enforcement officers have powers
34 of arrest and apprehension, including without limitation counter-drug and
35 counter-terrorism activities;

36 (2) Take any action necessary to the proper administration of

1 the acquisition and the distribution of excess military properties to
2 eligible claimants in this state, with distribution to be in accordance with
3 the appropriate controlling federal statutes;

4 (3) Establish service charges in an amount necessary to cover
5 the expenses of the Department of ~~Career Education~~ Public Safety incurred in
6 administering this section; and

7 (4) Take action as necessary to collect service charges and,
8 from any state moneys over which the department has control, withhold funds
9 necessary to pay an amount owing by a state or local law enforcement agency.

10
11 SECTION 5923. Arkansas Code § 20-22-203 is amended to read as follows:
12 20-22-203. Staff, offices, and supplies provided.

13 The ~~State Fire Marshal's Office~~ Department of Public Safety shall
14 provide staff, office space and supplies, and other assistance as may be
15 necessary for the day-to-day operation of the State Fire Prevention
16 Commission and its activities.

17
18 SECTION 5924. Arkansas Code § 20-22-204 is amended to read as follows:
19 20-22-204. Powers and duties.

20 (a) The State Fire Prevention Commission may:

21 (1)(A) Obtain all necessary information from fire departments,
22 police or sheriffs' departments, the ~~Department~~ Division of Arkansas State
23 Police, other state agencies, clinics, insurance companies, or any other
24 person with regard to fire, its causes, and its methods of prevention.

25 (B)(i) Notwithstanding any provision of law to the
26 contrary, information furnished under this subsection shall be confidential
27 and maintained as such if so requested by the persons providing the
28 information.

29 (ii) Nothing in this subsection shall prohibit the
30 use of confidential information to prepare statistics or other general data
31 when it is presented so as to prevent identification of the source of
32 information; and

33 (2) Receive and expend funds obtained from the federal
34 government or other sources by means of contracts, grants, awards, gifts, and
35 other devices in support of fire-prevention-related scientific and technical
36 programs, studies, or other operations beneficial to the state.

1 (b) The ~~commission~~ State Fire Prevention Commission shall have the
2 following duties and responsibilities:

3 (1) Develop a plan for statewide fire prevention, including
4 plans for urban and rural fire prevention;

5 (2) Develop and maintain a fire prevention database upon which
6 decisions concerning fire prevention and policy may intelligently be made;

7 (3) Identify state needs relative to fire prevention, including
8 specific needs of urban and rural areas;

9 (4) Recommend actions to meet identified state needs relative to
10 fire prevention;

11 (5) Monitor and review the effectiveness of existing and
12 proposed fire prevention programs;

13 (6) Maintain an awareness of fire prevention research and
14 development of importance to the state in order to promote information
15 exchange and coordination of efforts;

16 (7) Recommend legislative and executive action to encourage
17 development of fire prevention resources and the efficient utilization of the
18 resources;

19 (8) Administer a public fire prevention awareness program to
20 inform the public of the importance and methods of fire prevention;

21 (9) Advise the General Assembly, the Governor, the State Fire
22 Marshal, the Arkansas Forestry Commission, the Director of the Arkansas Fire
23 Training Academy, the Director of the ~~Department~~ Division of Arkansas State
24 Police, and the Insurance Commissioner on fire prevention and program matters
25 of importance to each;

26 (10) Advise on the delegation of responsibilities to state
27 agencies responsible for fire prevention and policy and recommend resolution
28 of conflicts between the various agencies on fire prevention matters;

29 (11) Develop an annual report on the activities of the State
30 Fire Prevention Commission and transmit the report to the ~~Governor~~ Secretary
31 of the Department of Public Safety and the General Assembly on or before
32 November 30 annually; and

33 (12) Coordinate activities with the Federal Emergency Management
34 Agency and any of the other federal or state agencies involved with fire
35 prevention matters.
36

1 SECTION 5925. Arkansas Code § 20-22-701(5), concerning the definition
2 of "license" under the laws governing fireworks, is amended to read as
3 follows:

4 (5) "License" means the written authority of the Director of the
5 ~~Department~~ Division of Arkansas State Police issued under the authority of
6 this subchapter to a distributor, jobber, wholesaler, manufacturer, importer,
7 or retailer for a fee as provided in § 20-22-707;

8
9 SECTION 5926. Arkansas Code § 20-22-701(7), concerning the definition
10 of "permit" under the laws governing fireworks, is amended to read as
11 follows:

12 (7) "Permit" means the written authority of the Director of the
13 ~~Department~~ Division of Arkansas State Police issued for a public fireworks
14 display under the authority of this subchapter;

15
16 SECTION 5927. Arkansas Code § 20-22-702(a), concerning exceptions for
17 public displays of fireworks, is amended to read as follows:

18 (a) Nothing in this subchapter shall be construed as applying to the
19 shipping, sale, possession, and use of fireworks for public displays by
20 holders of a permit for a public display to be conducted in accordance with
21 the rules and regulations promulgated by the Director of the ~~Department~~
22 Division of Arkansas State Police. Such items of fireworks which are to be
23 used for public display only and which are otherwise prohibited for sale and
24 use within the state shall include display shells designed to be fired from
25 mortars and display set pieces of fireworks classified by the regulations of
26 the United States Surface Transportation Board as Class B special fireworks
27 and shall not include such items of commercial fireworks as cherry bombs,
28 tubular salutes, repeating bombs, aerial bombs, and torpedoes.

29
30 SECTION 5928. Arkansas Code § 20-22-702(d)(1), concerning exceptions
31 for public displays of fireworks, is amended to read as follows:

32 (d)(1) The ~~Department~~ Division of Arkansas State Police may charge a
33 fee not to exceed fifty dollars (\$50.00) for each permit issued under this
34 section.

35
36 SECTION 5929. Arkansas Code § 20-22-702(d)(3), concerning exceptions

1 for public displays of fireworks, is amended to read as follows:

2 (3) All permit fees shall be remitted to the ~~department~~ division
3 and shall be deposited into the State Treasury as special revenues to the
4 credit of the ~~Department~~ Division of Arkansas State Police Fund.

5

6 SECTION 5930. Arkansas Code § 20-22-703(a)(1)(D), concerning
7 exceptions regarding fireworks law, is amended to read as follows:

8 (D) Transportation, sale, or use of permissible fireworks
9 as defined in § 20-22-708 or special fireworks as defined in § 20-22-701
10 solely for agricultural or industrial purposes, provided that the purchaser
11 first secures a written permit to purchase and use the fireworks for
12 agricultural or industrial purposes from the Director of the ~~Department~~
13 Division of Arkansas State Police.

14

15 SECTION 5931. Arkansas Code § 20-22-707(a)(1)(A), concerning
16 application and issuance of license for manufacturer, importer, distributor,
17 jobber, retailer, or shooter of fireworks, is amended to read as follows:

18 (a)(1)(A) To be licensed as a manufacturer, importer, distributor,
19 jobber, retailer, retailer all-year, or shooter of fireworks, a first-time
20 applicant shall submit to the Director of the ~~Department~~ Division of Arkansas
21 State Police an application on a form provided by the director setting forth
22 the information that the director determines necessary to ensure public
23 health, safety, and welfare.

24

25 SECTION 5932. Arkansas Code § 20-22-707(a)(2)(A), concerning the
26 application and issuance of a license for a manufacturer, importer,
27 distributor, jobber, retailer, or shooter of fireworks, is amended to read as
28 follows:

29 (2)(A) A retailer may purchase a license from its vendor if the
30 vendor is a licensed importer, distributor, or jobber or from the State Fire
31 Marshal Enforcement Section of the ~~Department~~ Division of Arkansas State
32 Police. The retailers' licenses shall be made available by the ~~Department~~
33 Division of Arkansas State Police to the vendor in books of twenty (20)
34 licenses to a book.

35

36 SECTION 5933. Arkansas Code § 20-22-707(c), concerning application and

1 issuance of license for manufacturer, importer, distributor, jobber,
2 retailer, or shooter of fireworks, is amended to read as follows:

3 (c) All funds collected under this subchapter by the director,
4 including license fees and penalties, shall be deposited into the State
5 Treasury to the credit of the ~~Department~~ Division of Arkansas State Police
6 Fund.

7
8 SECTION 5934. Arkansas Code § 20-22-707(h), concerning the application
9 and issuance of a license for a manufacturer, importer, distributor, jobber,
10 retailer, or shooter of fireworks, is amended to read as follows:

11 (h) The director may revoke or deny an application for any license or
12 permit at any time for violating any provision of this subchapter or for
13 falsifying any information provided to the ~~department~~ division as part of an
14 application for a license or permit.

15
16 SECTION 5935. Arkansas Code § 20-22-710(e), concerning the location
17 and display of fireworks, is amended to read as follows:

18 (e) All licensees under this subchapter shall have a fire extinguisher
19 of a type approved by the Director of the ~~Department~~ Division of Arkansas
20 State Police in an area readily accessible to any point of storage or sale of
21 fireworks. In lieu of such an extinguisher, retailers may maintain a common
22 type of water hose, charged and connected to a water system, which is readily
23 available to any area where fireworks are stored or sold.

24
25 SECTION 5936. Arkansas Code § 20-22-714(a), concerning the seizure of
26 contraband fireworks, is amended to read as follows:

27 (a) The Director of the ~~Department~~ Division of Arkansas State Police
28 shall seize as contraband any fireworks other than Class C common fireworks
29 defined in § 20-22-708 or special fireworks for public displays as provided
30 in § 20-22-702 or for agricultural or industrial purposes as provided in §
31 20-22-703, which are sold, displayed, used, or possessed in violation of this
32 subchapter.

33
34 SECTION 5937. Arkansas Code § 20-22-715(a), concerning a notice of
35 violation and hearing, is amended to read as follows:

36 (a) With reference to the administrative and civil penalties imposed

1 by this subchapter, the Director of the ~~Department~~ Division of Arkansas State
2 Police shall notify the person accused of a violation, setting a time and
3 place for hearing to be held by the director or his or her designated agent.
4

5 SECTION 5938. Arkansas Code § 20-22-803(a)(3), concerning the creation
6 and membership of the Arkansas Fire Protection Services Board, is amended to
7 read as follows:

8 (3) The Director of the Arkansas Fire Training Academy, the
9 Director of the ~~Arkansas Department~~ Division of Emergency Management or his
10 or her designee, and the State Fire Marshal or his or her designee shall be
11 ex officio members.
12

13 SECTION 5939. Arkansas Code § 20-22-804(A)(5), concerning the powers
14 and duties of the Arkansas Fire Protection Services Board, is amended to read
15 as follows:

16 (5) Serve in an advisory capacity to the Director of the
17 ~~Arkansas Department~~ Division of Emergency Management with respect to the
18 operation of fire services and the matters concerning certification and
19 standards related to fire services in the state;
20

21 SECTION 5940. Arkansas Code § 20-22-805 is amended to read as follows:

22 20-22-805. Office of Fire Protection Services – Creation.

23 (a) There is created the Office of Fire Protection Services which
24 shall be under the supervision and direction of the Director of the ~~Arkansas~~
25 ~~Department~~ Division of Emergency Management.

26 (b) The Director of the Office of Fire Protection Services, who shall
27 be employed by the Director of the ~~Arkansas Department~~ Division of Emergency
28 Management, with the approval of the Secretary of the Department of Public
29 Safety, shall have the responsibility to carry out the administrative
30 functions and directives of the Arkansas Fire Protection Services Board.

31 ~~(c) The Director of the Office of Fire Protection Services may employ~~
32 ~~personnel as may be authorized by law to carry out the duties of the office.~~
33

34 SECTION 5941. Arkansas Code § 20-64-1003(d), concerning the functions,
35 powers, and duties of the Arkansas Alcohol and Drug Abuse Coordinating
36 Council, is amended to read as follows:

1 (d) The council shall develop training and education programs for
2 criminal justice personnel in drug-related matters in conjunction with the
3 ~~Arkansas Commission on~~ Division of Law Enforcement Standards and Training.
4

5 SECTION 5942. Arkansas Code § 22-3-304(a), concerning the enforcement
6 of the subchapter by the Director of the Department of Arkansas State Police,
7 is amended to read as follows:

8 (a) In order that the provisions of this subchapter might be enforced,
9 the Director of the ~~Department~~ Division of Arkansas State Police may assign
10 one (1) state police officer or more to the State Capitol and its grounds,
11 which may include assignments for sessions of the General Assembly, and the
12 Secretary of State is directed to assign one (1) State Capitol Police officer
13 or more. It shall be the responsibility of the Secretary of State to assure
14 that at least one (1) certified law enforcement officer is on duty on the
15 State Capitol grounds twenty-four (24) hours per day, seven (7) days per
16 week.
17

18 SECTION 5943. Arkansas Code § 22-8-210 is amended to read as follows:
19 22-8-210. Motor vehicle renovation.

20 (a) Funds deposited into the Motor Vehicle Acquisition Revolving Fund
21 created by § 19-5-1002(a) and § 22-8-206(b), which may be made available for
22 the purchase of motor vehicles for the ~~Department~~ Division of Arkansas State
23 Police, may in addition be made available and used for expenses associated
24 with the renovation of state police motor vehicles.

25 (b) If the Director of the ~~Department~~ Division of Arkansas State
26 Police determines the cost associated with renovating or repairing state
27 police motor vehicles is economically beneficial, he or she shall contract
28 with a qualified vendor and, when invoiced, shall submit said invoice to the
29 Chief Fiscal Officer of the State, who shall direct payment from moneys set
30 aside in the fund for the ~~department~~ division.
31

32 SECTION 5944. Arkansas Code § 24-6-201(6) and (7), concerning the
33 definition of "department" and "director" under the laws governing the State
34 Police Retirement System, are repealed.

35 ~~(6) "Department" means the Department of Arkansas State Police;~~

36 ~~(7) "Director" means the Director of the Department of Arkansas~~

1 ~~State Police;~~

2

3 SECTION 5945. Arkansas Code § 24-6-201(8), concerning the definition
4 of "final average compensation" under the laws governing the State Police
5 Retirement System, is amended to read as follows:

6 (8)(A) "Final average compensation" for contributory service
7 means the average of the annual salaries paid a member for the three (3)
8 years of credited service rendered by the member immediately preceding his or
9 her last termination of employment with the ~~department~~ Division of Arkansas
10 State Police, but the final average compensation shall not exceed that of the
11 highest permanent rank.

12 (B)(i) "Final average compensation" for Tier I
13 noncontributory service means the average of the highest annual compensation
14 paid a member during any period of sixty (60) calendar months of credited
15 service with the ~~Department of Arkansas State Police~~ division.

16 (ii) Should a member have less than sixty (60)
17 calendar months of credited service, "final average compensation" means the
18 monthly average paid to the member during his or her total years of credited
19 service;

20

21 SECTION 5946. Arkansas Code § 24-6-201(16), concerning the definition
22 of "retirement" under the laws governing the State Police Retirement System,
23 is amended to read as follows:

24 (16) "Retirement" means a member's withdrawal from the employ of
25 the ~~department~~ division with a pension payable from funds of the system;

26

27 SECTION 5947. Arkansas Code § 24-6-201(18) and (19), concerning the
28 definitions of "service" and "state police officer" under the laws governing
29 the State Police Retirement System, are amended to read as follows:

30 (18) "Service" means service rendered to the ~~department~~ division
31 by a state police officer and shall include previous service, if any,
32 rendered as an Arkansas state ranger, state police officer with the
33 Department of Arkansas State Police, or state police officer with the
34 Division of Arkansas State Police;

35 (19)(A) "State police officer" means any employee of the
36 ~~Department of Arkansas State Police~~ division or its predecessor entities who

1 holds the rank of state trooper or higher rank, and it shall include the
2 ~~director~~ Director of the Division of Arkansas State Police.

3 (B) The term "state police officer" shall not include any
4 civilian employee of the ~~department~~ division, nor shall it include any person
5 who is temporarily employed as a state trooper for an emergency.

6 (C) In any case of doubt as to who is a "state police
7 officer", the board shall decide the question;

8
9 SECTION 5948. Arkansas Code § 24-6-207(a), concerning membership in
10 the State Police Retirement System, is amended to read as follows:

11 (a) The Director of the ~~Department~~ Division of Arkansas State Police
12 and all other state police officers ~~who were state police officers March 19,~~
13 ~~1951, and who continued as state police officers on or after March 19, 1951,~~
14 shall become members of the State Police Retirement System.

15
16 SECTION 5949. Arkansas Code § 24-6-207(c), concerning membership in
17 the State Police Retirement System, is amended to read as follows:

18 (c) None of the other employees of the ~~Department~~ Division of Arkansas
19 State Police shall be eligible to membership in the system, and the
20 conferring of rank upon any such employee shall not, in itself, constitute
21 eligibility to membership in the system.

22
23 SECTION 5950. Arkansas Code § 24-6-207, concerning membership in the
24 State Police Retirement System, is amended to add an additional subsection to
25 read as follows:

26 (d) Any state police officer, upon appointment as Secretary of the
27 Department of Public Safety, shall be eligible to continue his or her
28 membership in the State Police Retirement System.

29
30 SECTION 5951. Arkansas Code § 24-6-405(a), concerning eligibility for
31 benefits and disability retirement from the State Police Retirement System,
32 is amended to read as follows:

33 (a)(1)(A) Upon application filed with the Board of Trustees of the
34 State Police Retirement System by a member or by the Director of the
35 ~~Department~~ Division of Arkansas State Police on behalf of a member, a member
36 who is in the employ of the ~~Department~~ Division of Arkansas State Police, who

1 has five (5) or more years of actual service, and who becomes totally and
2 permanently incapacitated for duty in the employ of the ~~department~~ division
3 by reason of personal injury or disease may be retired by the Board of
4 Trustees of the State Police Retirement System, but only after a medical
5 examination of the member.

6 (B) This examination shall be made by or under the
7 direction of a board of medical professionals as defined in the rules of the
8 Board of Trustees of the State Police Retirement System, using the active
9 duty criteria supplied by the ~~department~~ division in determining the extent
10 of the disability.

11 (2) The five (5) years of service requirement contained in this
12 subsection shall not apply to a member whom the Board of Trustees of the
13 State Police Retirement System finds to be in receipt of workers'
14 compensation for his or her disability arising solely and exclusively out of
15 and in the course of his or her employment with the ~~department~~ division.

16
17 SECTION 5952. Arkansas Code § 24-6-405(c)(4), concerning eligibility
18 for benefits and disability retirement from the State Police Retirement
19 System, is amended to read as follows:

20 (4) If, upon the medical examination of the retirant, the
21 medical professionals designated by the Board of Trustees of the State Police
22 Retirement System report to the Board of Trustees of the State Police
23 Retirement System that the retirant is physically capable of performing the
24 duties of the rank held by him or her at the time of his or her retirement,
25 the retirant shall be returned to the employ of the ~~department~~ division, and
26 his or her disability pension shall be terminated.

27
28 SECTION 5953. Arkansas Code § 24-6-405(d), concerning eligibility for
29 benefits and disability retirement from the State Police Retirement System,
30 is amended to read as follows:

31 (d)(1) Upon a disability retirant's return to the employ of the
32 ~~department~~ division as provided in subsection (c) of this section, his or her
33 service at the time of his or her retirement shall be restored to his or her
34 credit.

35 (2) He or she shall be given service credit for the period he or
36 she was receiving a disability pension if within that period he or she was in

1 receipt of workers' compensation on account of his or her ~~department~~ division
2 employment.

3
4 SECTION 5954. Arkansas Code § 25-17-304(a), concerning the appointment
5 and removal of institutional law enforcement officers, is amended to read as
6 follows:

7 (a) The executive heads of each of the educational, charitable,
8 correctional, penal, and other institutions owned and operated by the State
9 of Arkansas, including the ~~executive head~~ Secretary of the Department of
10 Parks, Heritage, and Tourism and the executive head of the Arkansas Forestry
11 Commission, are authorized to designate and appoint one (1) or more of the
12 employees of the institutions and department, respectively, as an
13 institutional law enforcement officer or officers for the institution or at a
14 state park, or any separate portion of the institution or park, who shall
15 exercise law enforcement officer authority under the laws of this state.

16
17 SECTION 5955. Arkansas Code § 25-17-304(e)(3)(D), concerning the
18 appointment and removal of institutional law enforcement officers, is amended
19 to read as follows:

20 (D) The ~~Arkansas Commission on~~ Division of Law Enforcement
21 Standards and Training shall be notified of any change in an institutional
22 law enforcement officer's status.

23
24 SECTION 5956. Arkansas Code § 27-16-508(b), concerning the Office of
25 Driver Services fee for reinstatement, is amended to read as follows:

26 (b) The revenues derived from this fee shall be deposited into the
27 State Treasury as special revenues to the credit of the ~~Department~~ Division
28 of Arkansas State Police Fund.

29
30 SECTION 5957. Arkansas Code § 27-16-808(b)(2), concerning
31 reinstatement charge for a suspended license, is amended to read as follows:

32 (2) Seventy-five percent (75%) to the State Treasury as special
33 revenues to the credit of the ~~Department~~ Division of Arkansas State Police
34 Fund.

35
36 SECTION 5958. Arkansas Code § 27-23-108(a)(1)(B), concerning

1 commercial driver license qualification standards, is amended to read as
2 follows:

3 (B)(i) The tests shall be prescribed by the ~~Department~~
4 Division of Arkansas State Police and shall be conducted by the ~~Department of~~
5 ~~Arkansas State Police~~ division or by a third-party tester designated by the
6 ~~Department of Arkansas State Police~~ division under regulations promulgated as
7 provided in this section.

8 (ii) The knowledge test administered by the
9 ~~Department of Arkansas State Police~~ division shall be given in electronic
10 format.

11 (iii) The result of a test administered by the
12 ~~Department of Arkansas State Police~~ division or by a third-party tester shall
13 be transmitted electronically to the Department of Finance and
14 Administration.

15

16 SECTION 5959. Arkansas Code § 27-23-108(a)(2), concerning commercial
17 driver license qualification standards, is amended to read as follows:

18 (2) The ~~Department of Arkansas State Police~~ division shall, by
19 rules, authorize a person, including an agency of this state, an employer, a
20 private driver training facility, another private institution, or a
21 department, agency, or instrumentality of local government, to administer the
22 skills test specified by this section pursuant to the requirements of 49
23 C.F.R. § 383.75, as in effect on January 1, 2013. These third-party testing
24 regulations shall provide at a minimum that:

25 (A) A skills test given by a third-party tester is the
26 same as a test that would otherwise be given by the ~~Department of Arkansas~~
27 ~~State Police~~ division using:

28 (i) The same version of the skills test;

29 (ii) The same written instructions for test
30 applicants; and

31 (iii) The same scoring sheets as those prescribed in
32 49 C.F.R. part 383, subparts G and H, as in effect on January 1, 2013;

33 (B) A third-party skills test examiner shall meet the
34 requirements of 49 C.F.R. § 384.228, as in effect on January 1, 2013;

35 (C) The third-party tester shall enter into an agreement
36 with the ~~Department of Arkansas State Police~~ division that demonstrates

1 compliance with all of the requirements of 49 C.F.R. § 383.75, as in effect
2 on January 1, 2013;

3 (D) ~~The Department of Arkansas State Police~~ division shall
4 designate and provide to any third-party testers the evidence to be used to
5 indicate to the Department of Finance and Administration that an applicant
6 had successfully passed the skills test;

7 (E) The eligibility to become a third-party tester shall
8 be open to qualified persons under the regulations at least two (2) times
9 annually, provided there are sufficient numbers of qualified applicants to
10 conduct classes;

11 (F) The third-party tester shall pay a third-party testing
12 administration fee as may be determined by the Director of the ~~Department~~
13 Division of Arkansas State Police to recover the costs of administering the
14 testing program and examination distribution expenses;

15 (G) ~~The Department of Arkansas State Police~~ division shall
16 issue each third-party skills test examiner a skills testing certificate upon
17 successful completion of a formal skills test examiner training course
18 pursuant to 49 C.F.R. § 384.228, as in effect on January 1, 2013; and

19 (H) ~~The Department of Arkansas State Police~~ division shall
20 audit and monitor third-party testers and third-party skills test examiners
21 pursuant to the requirements of 49 C.F.R. § 384.229, as in effect on January
22 1, 2013.

23
24 SECTION 5960. Arkansas Code § 27-23-108(a)(3)(B)(i), concerning
25 commercial driver license qualification standards, is amended to read as
26 follows:

27 (B)(i) A new third-party tester applicant shall certify to
28 the ~~Department of Arkansas State Police~~ division the number of tests it
29 anticipates conducting in its first year of testing and shall obtain and
30 maintain a bond based upon the number of tests it anticipates conducting that
31 corresponds to the amount provided in subdivision (a)(3)(A) of this section
32 for tests in the preceding calendar year.

33
34 SECTION 5961. Arkansas Code § 27-23-108(a)(3)(D), concerning
35 commercial driver license qualification standards, is amended to read as
36 follows:

1 (D) In the event that a third-party tester or one of its
2 examiners is involved in fraudulent activities related to conducting skills
3 testing that require a driver to be retested, the third party tester's bond
4 is liable to the ~~Department of Arkansas State Police~~ division for payment of
5 its actual costs to retest the driver.

6
7 SECTION 5962. Arkansas Code § 27-23-108(b)(1), concerning commercial
8 driver license qualification standards, is amended to read as follows:

9 (1) The ~~Department of Arkansas State Police~~ division may waive
10 the skills test specified in this section for a commercial driver license
11 applicant who meets the requirements of 49 C.F.R., § 383.77, as in effect on
12 January 1, 2013.

13
14 SECTION 5963. The introductory language of Arkansas Code § 27-23-
15 108(b)(2)(B), concerning commercial driver license qualification standards,
16 is amended to read as follows:

17 (B) The ~~Department of Arkansas State Police~~ division shall
18 waive the skills test specified in this section for any commercial driver
19 license applicant who:

20
21 SECTION 5964. The introductory language of Arkansas Code § 27-23-
22 108(b)(2)(C), concerning commercial driver license qualification standards,
23 is amended to read as follows:

24 (C) The ~~Department of Arkansas State Police~~ division
25 shall:

26
27 SECTION 5965. Arkansas Code § 27-23-108(e)(1)(A), concerning
28 commercial driver license qualification standards, is amended to read as
29 follows:

30 (A) Completes a human trafficking prevention course
31 administered by the ~~Department of Arkansas State Police~~ division or by a
32 third party approved by the ~~Department of Arkansas State Police~~ division to
33 present a human trafficking prevention course under regulations promulgated
34 as provided in this section; or

35
36 SECTION 5966. Arkansas Code § 27-37-701(2), concerning the definition

1 of "seat belt" under the motor vehicle laws, is amended to read as follows:

2 (2) "Seat belt" means any passenger restraint system as defined
3 by the ~~Department~~ Division of Arkansas State Police, except that, until such
4 time as the ~~department~~ division has promulgated regulations defining "seat
5 belt", the term means any passenger restraint system which meets the federal
6 requirements contained in 49 C.F.R. § 571.208.

7

8 SECTION 5967. Arkansas Code § 27-53-210(a) and (b), concerning the
9 fees for copies made by the Department of Arkansas State Police, are amended
10 to read as follows:

11 (a) Except as provided under § 27-53-202(b)(2)(B), photostatic or
12 written copies of reports and records may be obtained from the Director of
13 the ~~Department~~ Division of Arkansas State Police, or from his or her duly
14 designated assistants, by any person who makes a written request for them to
15 the ~~department~~ Division of Arkansas State Police.

16 (b)(1) In order to partially reimburse the ~~Department of Arkansas~~
17 ~~State Police~~ division for the cost of making photostatic or written copies of
18 motor vehicle accident reports and copies of records of traffic violations,
19 there shall be charged a fee of ten dollars (\$10.00) for each copy of a basic
20 accident report and a fee of one dollar fifty cents (\$1.50) per page for each
21 copy of a supplemental report.

22 (2) All funds collected under this subsection shall immediately
23 be paid over by the ~~Department of Arkansas State Police~~ division to the
24 Treasurer of State and shall be credited by him or her as a special revenue
25 to the ~~Department~~ Division of Arkansas State Police Fund.

26

27 SECTION 5968. Arkansas Code § 27-67-222(a), concerning the state
28 police officer highway dedication program, is amended to read as follows:

29 (a)(1) "State police officer" means any employee of the ~~Department~~
30 Division of Arkansas State Police who holds the rank of state trooper or
31 higher rank, including the Director of the ~~Department~~ Division of Arkansas
32 State Police.

33 (2) The term "state police officer" does not include any:

34 (A) Civilian employee of the ~~department~~ division; or

35 (B) Person who is temporarily employed as a state trooper
36 during an emergency.

1
2 SECTION 5969. Arkansas Code Title 25, Chapter 43, is amended to add an
3 additional subchapter to read as follows:

4 Subchapter 15 – Department of Transformation and Shared Services

5
6 25-43-1501. Department of Transformation and Shared Services.

7 There is created the Department of Transformation and Shared Services
8 as a cabinet-level department.

9
10 25-43-1502. State entities transferred to Department of Transformation
11 and Shared Services.

12 (a) The administrative functions of the following state entities are
13 transferred to the Department of Transformation and Shared Services by a
14 cabinet-level department transfer:

15 (1) The Arkansas Geographic Information Systems Board, created
16 under § 15-21-503;

17 (2) The Arkansas Geographic Information Systems Office, created
18 under § 15-21-502;

19 (3) The Building Authority Division, created under § 22-2-104;

20 (4) The Data and Transparency Panel, created under § 25-4-127;

21 (5) The Department of Information Systems, created under § 25-4-
22 104, now to be known as the Division of Information Systems;

23 (6) The Employee Benefits Division, created under § 25-43-1505;

24 (7) The Office of Personnel Management, created under § 25-43-
25 1504;

26 (8) The Office of State Procurement, created under § 19-11-215;

27 (9) The State and Public School Life and Health Insurance Board,
28 created under 21-5-402; and

29 (10) The State Technology Council, created under § 25-33-101.

30 (b) Unless otherwise provided by law, a cabinet-level department
31 transfer under subsection (a) of this section includes all state entities
32 under a state entity transferred to the Department of Transformation and
33 Shared Services under subsection (a) of this section, including without
34 limitation a division, office, program, or other unit of a state entity
35 transferred to the Department of Transformation and Shared Services under
36 subsection (a) of this section.

1 (c) Unless otherwise provided by law, a state entity whose
2 administrative functions have been transferred to the Department of
3 Transformation and Shared Services under subsection (a) of this section shall
4 otherwise continue to exercise the duties of the state entity under the
5 administration of the cabinet-level Department of Transformation and Shared
6 Services in the same manner as before the creation of the cabinet-level
7 department.

8
9 25-43-1503. Secretary of the Department of Transformation and Shared
10 Services.

11 (a) The executive head of the Department of Transformation and Shared
12 Services shall be the Secretary of the Department of Transformation and
13 Shared Services.

14 (b) The secretary shall be appointed by the Governor, subject to
15 confirmation by the Senate, and shall serve at the pleasure of the Governor.

16 (c) Each division of the department shall be under the direction,
17 control, and supervision of the secretary.

18 (d) The secretary may delegate his or her functions, powers, and
19 duties to various divisions or employees of the department as he or she shall
20 deem desirable and necessary for the effective and efficient operation of the
21 department.

22 (e) The secretary may, unless otherwise provided by law:

23 (1) Hire department personnel;

24 (2) Perform or assign duties assigned to the department; and

25 (3) Serve as the director, or the administrative or executive
26 head, of any state entity under the administrative control of the department
27 if the secretary also meets all statutory requirements for the position.

28
29 25-43-1504. Office of Personnel Management – State Personnel
30 Administrator.

31 (a) There is created within the Department of Transformation and
32 Shared Services the Office of Personnel Management.

33 (b)(1)(A) The Director of the Office of Personnel Management shall be
34 known as the "State Personnel Administrator".

35 (B) The State Personnel Administrator shall be employed by the
36 Secretary of the Department of Transformation and Shared Services with the

1 advice and consent of the Governor.

2 (2) The Office of Personnel Management shall be under the
3 overall direction, control, and supervision of the Secretary of the
4 Department of Transformation and Shared Services.

5
6 25-43-1505. Employee Benefits Division.

7 There is created within the Department of Transformation and Shared
8 Services the Employee Benefits Division.

9
10 SECTION 5970. Arkansas Code § 1-4-133(b), concerning the display of
11 the national motto, is amended to read as follows:

12 (b) The copies or posters authorized under this section shall either
13 be donated or shall be purchased solely with funds made available through
14 voluntary contributions to the local school boards or the Building Authority
15 Division ~~of the Department of Finance and Administration.~~

16
17 SECTION 5971. Arkansas Code § 6-20-1407(e), concerning the approval of
18 school facility building plans, is amended to read as follows:

19 (e)(1) For new public school facilities, a copy of final construction
20 documents shall be submitted to the Design Review Section of the Building
21 Authority Division ~~of the Department of Finance and Administration~~ for review
22 in regard to compliance with the Arkansas-adopted Americans with Disabilities
23 Act Accessibility Guidelines.

24 (2) All review comments received from the Building Authority
25 Division ~~of the Department of Finance and Administration~~ shall be in writing.

26 (3) Corrected construction documents shall be received and
27 approved by the Building Authority Division ~~of the Department of Finance and~~
28 ~~Administration.~~

29 (4) No new public school facilities project shall be released
30 for bidding or construction until the requirements of this subsection are
31 met.

32
33 SECTION 5972. Arkansas Code § 6-21-109(a), concerning the rules
34 governing public works projects, is amended to read as follows:

35 (a) The Commission for Arkansas Public School Academic Facilities and
36 Transportation, after consulting with the Building Authority Division ~~of the~~

1 ~~Department of Finance and Administration~~ and any other entities, shall
2 establish rules applicable to public educational entities for all public
3 works projects when the public educational entity uses its own employees or
4 acts as a general contractor.

5
6 SECTION 5973. Arkansas Code § 6-62-302(b), concerning authorization
7 for university building construction and purchases, is amended to read as
8 follows:

9 (b) No board of trustees of such public institutions of higher
10 education shall be required to obtain any prior review, consultation,
11 approval, assistance, or advice from the Building Authority Division ~~of the~~
12 ~~Department of Finance and Administration~~ for projects undertaken based on the
13 foregoing powers and authority. Provided, however, nothing in this subsection
14 shall prevent any board of trustees of such public institutions of higher
15 education from entering into an agreement with the division to provide
16 review, consultation, approval, assistance, or advice for such projects.
17 However, public institutions of higher education exempt from project review,
18 consultation, approval, assistance, or advice of the division shall remain
19 subject to other laws governing public works, including without limitation §
20 19-4-1401 et seq. and § 22-9-101 et seq.

21
22 SECTION 5974. Arkansas Code § 6-62-606(b), concerning an exemption
23 from compliance with review by the Building Authority Division of the
24 Department of Finance and Administration, is amended to read as follows:

25 (b) In proceeding under this subchapter, it shall not be necessary for
26 the board to comply with any other laws relating to the procurement,
27 disposal, or leasing of property, including without limitation laws
28 concerning the appointment of appraisers in connection therewith, laws
29 restricting the obligation of funds for construction, and laws dealing with
30 the improvement of historic structures, except that the transfer and the
31 lease agreement shall be subject to the review and approval of the Building
32 Authority Division ~~of the Department of Finance and Administration~~.

33
34 SECTION 5975. Arkansas Code § 6-62-611(a)(2), concerning agreements
35 for the transfer and lease of property, instruments of conveyance, and title
36 insurance, is amended to read as follows:

1 (2) The agreement may provide that the owner will make
2 improvements or additions to the property subject to the inspection and
3 approval of all improvements and additions to the property by the Building
4 Authority Division ~~of the Department of Finance and Administration.~~

5
6 SECTION 5976. Arkansas Code § 6-63-602(a), concerning the
7 administration of the higher education catastrophic leave bank program, is
8 amended to read as follows:

9 (a)(1) The Department of ~~Finance and Administration~~ Transformation and
10 Shared Services shall have administrative responsibility for developing,
11 implementing, and maintaining a catastrophic leave bank program for
12 nonfaculty benefits-eligible, full-time employees of the state institutions
13 of higher education.

14 (2) Each state institution of higher education may participate
15 in the catastrophic leave bank authorized by this section and administered by
16 the Office of Personnel Management ~~of the Division of Management Services of~~
17 ~~the Department of Finance and Administration~~, or the institution may
18 establish a catastrophic leave bank for its employees.

19
20 SECTION 5977. Arkansas Code § 6-63-602(f), concerning the
21 administration of the higher education catastrophic leave bank program, is
22 amended to read as follows:

23 (f) The ~~Director of the Department of Finance and Administration~~
24 Secretary of the Department of Transformation and Shared Services or his or
25 her designee shall promulgate necessary rules and regulations as deemed
26 necessary to carry out the provisions of this section.

27
28 SECTION 5978. Arkansas Code § 7-9-124(b), concerning the creation of
29 the Voter Registration Signature Imaging System Fund, is amended to read as
30 follows:

31 (b) The ~~Department~~ Division of Information Systems shall cooperate
32 with and assist the Secretary of State in determining the computer equipment
33 and software needed in the office of the Secretary of State for the voter
34 registration signature imaging system.

35
36 SECTION 5979. Arkansas Code § 10-3-601 is amended to read as follows:

1 10-3-601. Intent.

2 It is the intent of this subchapter to establish procedures whereby the
3 types of contracts to be let for legislative printing or duplicating
4 requirements may be determined after study and review of the printing or
5 duplicating needs of the General Assembly. Adequate specifications and
6 safeguards may be established for such contracts in order that the State
7 Procurement Director ~~of the Office of State Procurement of the Department of~~
8 ~~Finance and Administration~~ might be advised thereof in the letting of
9 contracts for legislative printing or duplicating requirements.

10

11 SECTION 5980. Arkansas Code § 10-3-1704(c), concerning the members and
12 duties of the Joint Committee on Advanced Communications and Information
13 Technology, is amended to read as follows:

14 (c) The Joint Committee on Advanced Communications and Information
15 Technology shall exercise appropriate legislative oversight of the operations
16 of the ~~Department~~ Division of Information Systems.

17

18 SECTION 5981. Arkansas Code § 10-3-1705 is amended to read as follows:
19 10-3-1705. Duties of joint standing committee.

20 Bills pertaining to the ~~Department~~ Division of Information Systems,
21 advanced communications and information technology, telemedicine, distance
22 learning, or public information access shall be referred to the Joint
23 Committee on Advanced Communications and Information Technology or the
24 Committee on Advanced Communications and Information Technology, as
25 appropriate.

26

27 SECTION 5982. Arkansas Code § 10-3-1707(c), concerning interim
28 committee meetings, expenses, and staff of the Joint Committee on Advanced
29 Communications and Information Technology, is amended to read as follows:

30 (c) All other appropriate state agencies, including, but not limited
31 to, the ~~Department~~ Division of Information Systems, the Arkansas Economic
32 Development Commission, and public colleges and universities in the State of
33 Arkansas, shall be available to assist the Joint Committee on Advanced
34 Communications and Information Technology on advanced communications and
35 information technology matters as may be requested by the Joint Committee on
36 Advanced Communications and Information Technology.

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SECTION 5983. Arkansas Code § 10-4-424(c), concerning the audit of information systems operations, is amended to read as follows:

(c) The ~~Department~~ Division of Information Systems, its successor agency, or other entities of the state or political subdivisions of the state that provide Internet, network, or other computer services or information to an entity of the state or a political subdivision of the state shall provide access to all data, support, or other necessary information services to Arkansas Legislative Audit in connection with their functions at no cost to Arkansas Legislative Audit.

SECTION 5984. Arkansas Code § 13-4-203(b)(5), concerning the Records Retention Committee, is amended to read as follows:

(5) The ~~Department~~ Division of Information Systems;

SECTION 5985. Arkansas Code § 15-21-205(a), concerning the duties and appointment of the State Surveyor, is amended to read as follows:

(a) The Arkansas Geographic Information Systems Board shall employ, with the approval of the Secretary of the Department of Transformation and Shared Services, a State Surveyor to be the head of the Division of Land Surveys of the Arkansas Geographic Information Systems Office.

SECTION 5986. Arkansas Code § 15-21-205(b)(2), concerning the appointment of the State Surveyor, is amended to read as follows:

(2) Be appointed by and serve at the pleasure of the ~~Arkansas Geographic Information Systems Office after the Arkansas Geographic Information Systems Office consults~~ Secretary of the Department of Transformation and Shared Services after consultation with the State Board of Licensure for Professional Engineers and Professional Surveyors and the Arkansas Society of Professional Surveyors;

SECTION 5987. The introductory language of Arkansas Code § 15-21-206, concerning the powers and duties of the State Surveyor, is amended to read as follows:

The State Surveyor, acting under the supervision and direction of the Arkansas Geographic Information Systems Office and the Secretary of the

1 Department of Transformation and Shared Services, shall have the following
2 authority and responsibility:

3
4 SECTION 5988. Arkansas Code § 15-21-206(13), concerning the powers and
5 duties of the State Surveyor, is amended to read as follows:

6 (13) To employ, with the approval of the Secretary of the
7 Department of Transformation and Shared Services, such surveyors and other
8 professional and nonprofessional assistants and to take other reasonable
9 action as deemed necessary to carry out the purposes of this subchapter.

10
11 SECTION 5989. Arkansas Code § 15-21-207 is amended to read as follows:
12 15-21-207. Surveyors generally.

13 (a) Every employee of the Division of Land Surveys of the Arkansas
14 Geographic Information Systems Office, Department of Transformation and
15 Shared Services, who performs any work required by law to be done by a
16 registered professional surveyor shall be a registered surveyor.

17 (b) Neither the State Surveyor nor any employee of the department
18 performing work on behalf of the division shall engage in private land
19 surveying or consultation while so employed by the ~~division~~ department.

20 (c) The State Surveyor and employees of the department performing work
21 on behalf of the division shall cooperate with and assist county surveyors in
22 performing their duties as prescribed by law and shall cooperate with and
23 assist other surveyors in locating or establishing section corner markers and
24 other land description markers and monuments.

25 (d) In performing the duties and responsibilities provided for in this
26 subchapter, the State Surveyor and employees ~~of the office of State Surveyor~~
27 of the Division of Land Surveys of the Arkansas Geographic Information
28 Systems Office and the Department of Transformation and Shared Services may
29 solicit the advice and assistance of the county surveyor in each county and
30 other surveyors in the county.

31 (e) If there are no registered professional surveyors in a particular
32 county, the department on behalf of the division may employ qualified
33 registered professional surveyors from other areas of the state to assist the
34 division in carrying out its duties and responsibilities under this
35 subchapter.

36

1 SECTION 5990. Arkansas Code § 15-21-208 is amended to read as follows:
2 15-21-208. Right to enter private property.

3 (a) The State Surveyor or any employee of the Department of
4 Transformation and Shared Services or of the Division of Land Surveys of the
5 Arkansas Geographic Information Systems Office shall have the right to enter
6 upon private property for the purpose of making surveys or searching for,
7 locating, relocating, or remonumenting land monuments, levelling stations, or
8 section corners.

9 (b) Employees of the department or division shall be immune from
10 arrest for trespass in performing their duties as prescribed in this
11 subchapter and under the direction of a registered professional land surveyor
12 but shall always, when practical, announce and identify themselves and their
13 intentions before entering upon private property.
14

15 SECTION 5991. Arkansas Code § 15-21-502(10), concerning the definition
16 of "State Chief Technology Officer" under the laws governing the Arkansas
17 Geographic Information Systems Board, is amended to read as follows:

18 (10) "State Chief Technology Officer" means the Director of the
19 ~~Department~~ Division of Information Systems;
20

21 SECTION 5992. Arkansas Code § 15-21-503(c)(2)(C), concerning the
22 creation and powers of the Arkansas Geographic Information Systems Board, is
23 amended to read as follows:

24 (C) The State Geographic Information Officer shall report
25 ~~directly to the Governor~~ to the Secretary of the Department of Transformation
26 and Shared Services.
27

28 SECTION 5993. Arkansas Code § 15-21-503(d)(1) and (2), concerning the
29 creation and powers of the Arkansas Geographic Information Systems Board, are
30 amended to read as follows:

31 (d)(1) The State Geographic Information Officer shall administer daily
32 operations of the Arkansas Geographic Information Systems Office with
33 direction from the board and the secretary.

34 (2) This may include liaison between the board, the Governor,
35 the secretary, the State Chief Technology Officer, and public or private
36 sector entities involved in spatial data and land records modernization,

1 project management in the preparation of the strategic planning documents
2 related to spatial data and land records modernization, developing policy and
3 procedures for land records modernization, and developing policy and
4 procedures for the activities of the board.

5
6 SECTION 5994. Arkansas Code § 15-55-213 is amended to read as follows:
7 15-55-213. Access to information.

8 The Arkansas Geological Survey and the ~~Department~~ Division of
9 Information Systems shall grant access to and provide information determined
10 by the ~~Office of the~~ Commissioner of State Lands to be necessary to
11 successfully accomplish its mission.

12
13 SECTION 5995. The introductory language of Arkansas Code § 17-105-
14 121(a), concerning the uniform classification plan and physician assistant
15 employment, is amended to read as follows:

16 (a) The Office of Personnel Management ~~of the Division of Management~~
17 ~~Services of the Department of Finance and Administration~~ shall establish and
18 maintain a position classification of physician assistant. The initial
19 position classification shall mirror the Veterans Health Administration
20 Directive 10-95-020 of March 3, 1995, and the United States Department of
21 Veterans Affairs regulation as embodied in:

22
23 SECTION 5996. Arkansas Code § 18-44-503(b), concerning public
24 buildings and improvements, is amended to read as follows:

25 (b) All persons, firms, associations, and corporations who have valid
26 claims against the bond may bring an action on the bond against the corporate
27 surety, provided that no action shall be brought on the bond after twelve
28 (12) months from the date on which the Building Authority Division ~~of the~~
29 ~~Department of Finance and Administration~~ or institutions exempt from
30 construction review and approval by the division approve final payment on the
31 state contract, nor shall any action be brought outside the State of
32 Arkansas.

33
34 SECTION 5997. Arkansas Code § 19-1-205 is amended to read as follows:
35 19-1-205. Office.

36 The Building Authority Division ~~of the Department of Finance and~~

1 ~~Administration~~ shall assign to the Department of Finance and Administration
2 and divisions of the department suitable office space with the necessary
3 conveniences for the transaction of the department's business and the
4 safekeeping of the department's records.

5
6 SECTION 5998. Arkansas Code § 19-4-522(c)(1), concerning the
7 maintenance and general operations under the state accounting and budgetary
8 procedures, is amended to read as follows:

9 (1) In the event the amount of any of the budget classifications
10 of maintenance and general operation in an agency's appropriation act are
11 found by the administrative head of the agency to be inadequate, then the
12 agency head may request, upon forms provided for such purpose by the Chief
13 Fiscal Officer of the State, a modification of the amounts of the budget
14 classification. In that event, he or she shall set out on the forms the
15 particular classifications for which he or she is requesting an increase or
16 decrease, the amounts thereof, and his or her reasons therefor. In no event
17 shall the total amount of the budget exceed either the amount of the
18 appropriation or the amount of the funds available, nor shall any transfer be
19 made from the capital outlay or data processing subclassification unless
20 specific authority for such transfers is provided by law, except for
21 transfers from capital outlay to data processing when determined by the
22 ~~Department~~ Division of Information Systems that data processing services for
23 a state agency can be performed on a more cost-efficient basis by the
24 ~~Department~~ Division of Information Systems than through the purchase of data
25 processing equipment by that state agency;

26
27 SECTION 5999. Arkansas Code § 19-4-522(d)(5), concerning the
28 maintenance and general operations under the state accounting and budgetary
29 procedures, is amended to read as follows:

30 (5) Data Processing. This subclassification includes purchase
31 of data processing services from the ~~Department~~ Division of Information
32 Systems, or others, and other expenses that are not necessarily classified
33 elsewhere in this section by virtue of the appropriation based upon budgets
34 presented for consideration.

35
36 SECTION 6000. Arkansas Code § 19-4-702(e)(2)(A), concerning the time

1 limits for presenting vouchers, is amended to read as follows:

2 (2)(A) All state agencies may carry over from the first fiscal
3 year of any biennium to the second fiscal year of the biennium any unexpended
4 maintenance and operation appropriations and funds, as defined under § 19-4-
5 522, to the extent necessary to pay for renovation and minor and major
6 repairs under the jurisdiction of the Building Authority Division ~~of the~~
7 ~~Department of Finance and Administration~~ which were under contract at least
8 ninety (90) days prior to the end of the first fiscal year but which will not
9 be completed until after the end of the first fiscal year and are
10 substantiated by written contracts.

11
12 SECTION 6001. Arkansas Code § 19-4-1405(c)(2)(A), concerning bidding
13 procedures, is amended to read as follows:

14 (2)(A) The bonds shall be both for the completion of the
15 construction free of all liens and encumbrances, in an amount fixed by the
16 Building Authority Division ~~of the Department of Finance and Administration,~~
17 and for the protection of the state agency and its members against all
18 liability for injury to persons or damage to, or loss of, property arising,
19 or claimed to have arisen, in the course of the work project, within limits
20 fixed by the division.

21
22 SECTION 6002. Arkansas Code § 19-4-1411(a)(1)(B), concerning the
23 processing of payments, is amended to read as follows:

24 (B) A state agency or institution of higher education
25 exempt from review and approval by the Building Authority Division ~~of the~~
26 ~~Department of Finance and Administration~~ - five (5) working days, including
27 preparation of a voucher and submission for payment; and

28
29 SECTION 6003. Arkansas Code § 19-4-1413(a)(2)(B), concerning projects
30 constructed with private funds, is amended to read as follows:

31 (B) The Chief Fiscal Officer of the State may forward a
32 copy of this statement to the Building Authority Division ~~of the Department~~
33 ~~of Finance and Administration, the Secretary of the Department of~~
34 Transformation and Shared Services, and the Governor for information; and

35
36 SECTION 6004. Arkansas Code § 19-4-1415(b)(1), concerning projects

1 exceeding five million dollars (\$5,000,000), is amended to read as follows:

2 (b)(1) No contract for projects between the state agency and the
3 construction manager, general contractor, architect, or engineer shall be
4 entered into without first obtaining approval of the Building Authority
5 Division ~~of the Department of Finance and Administration~~ and review by the
6 Legislative Council.

7
8 SECTION 6005. Arkansas Code § 19-4-1602(c), concerning payroll
9 deductions, is amended to read as follows:

10 (c) Deductions authorized by this section shall be made in compliance
11 with rules, regulations, and procedures established by the ~~Chief Fiscal~~
12 ~~Officer of the State~~ Secretary of the Department of Transformation and Shared
13 Services.

14
15 SECTION 6006. Arkansas Code § 19-4-1603 is amended to read as follows:
16 19-4-1603. Procedures for position control.

17 (a) The ~~Chief Fiscal Officer of the State~~ Secretary of the Department
18 of Transformation and Shared Services shall establish procedures for
19 exercising position control applicable to those state agencies subject to the
20 provisions of the Uniform Classification and Compensation Act, § 21-5-201 et
21 seq.

22 (b) Exercising position control shall be interpreted as follows:

23 (1) The ~~Chief Fiscal Officer of the State~~ Secretary of the
24 Department of Transformation and Shared Services shall assign a position
25 control number to each line-item position authorized for the applicable
26 agencies;

27 (2) The ~~Chief Fiscal Officer of the State~~ Secretary of the
28 Department of Transformation and Shared Services shall establish reporting
29 procedures so that agencies shall provide complete reports to the Department
30 of Finance and Administration on the use of all authorized positions; and

31 (3) The ~~Chief Fiscal Officer of the State~~ Secretary of the
32 Department of Transformation and Shared Services may restrict an agency's use
33 of authorized positions only after finding that the agency is in financial
34 difficulty and after invoking the fiscal controls provided in § 19-4-701 et
35 seq. and § 19-4-1201 et seq.

36

1 SECTION 6007. The introductory language of Arkansas Code § 19-4-
2 1604(a), concerning salary from two agencies, is amended to read as follows:

3 (a) Except as provided in subsections (b) and (c) of this section, no
4 person drawing a salary or other compensation from one state agency shall be
5 paid salary or compensation, other than actual expenses, from any other state
6 agency except upon written certification to and approval by the ~~Chief Fiscal~~
7 ~~Officer of the State~~ Secretary of the Department of Transformation and Shared
8 Services and by the head of each state agency, stating that:

9
10 SECTION 6008. The introductory language of Arkansas Code § 19-4-
11 1604(c), concerning salary from two agencies, is amended to read as follows:

12 (c) A person drawing a salary or other compensation from a state
13 agency or institution of higher education shall not be paid a salary or
14 compensation from another institution of higher education except upon the
15 written certification to and approval by the Director of the ~~Department~~
16 Division of Higher Education that the:

17
18 SECTION 6009. Arkansas Code § 19-4-1606(a), concerning the review of
19 payroll required under the Uniform Classification and Compensation Act, is
20 amended to read as follows:

21 (a) The Department of ~~Finance and Administration~~ Transformation and
22 Shared Services shall review the payroll of state agencies covered by the
23 provisions of the Uniform Classification and Compensation Act, § 21-5-201 et
24 seq., with respect to the salaries of all employees of affected state
25 agencies. This review shall determine the correctness of each payroll with
26 respect to each position to assure compliance with the compensation plan and
27 to assure that no position is being paid, during any payroll period, an
28 amount greater than authorized in the compensation plan or the amount
29 authorized for the position in the appropriation act applicable to the
30 agency.

31
32 SECTION 6010. Arkansas Code § 19-4-1607(a)(3), concerning monthly,
33 biweekly, weekly, and hourly salaries, is amended to read as follows:

34 (3) For complying with federal requirements, upon approval of
35 the Secretary of the Department of Transformation and Shared Services in
36 consultation with the Chief Fiscal Officer of the State, the maximum annual

1 salaries may be converted to hourly rates of pay for positions established on
2 the basis of twelve (12) months or less if authorized by law.

3
4 SECTION 6011. Arkansas Code § 19-4-1610(c)(2)(B), concerning the
5 prohibition of retroactive pay, is amended to read as follows:

6 (B) Upon the consent of the Secretary of the Department of
7 Transformation and Shared Services in consultation with the Chief Fiscal
8 Officer of the State.

9
10 SECTION 6012. Arkansas Code § 19-4-1612(b)(2)(A), concerning overtime
11 pay, is amended to read as follows:

12 (2)(A) The ~~Chief Fiscal Officer of the State~~ Secretary of the
13 Department of Transformation and Shared Services will specify those specific
14 employees or groups of employees other than employees of the Arkansas
15 Department of Transportation eligible to receive overtime compensation, the
16 circumstances under which overtime pay is to be allowed, and other matters
17 the ~~Chief Fiscal Officer of the State~~ Secretary of the Department of
18 Transformation and Shared Services finds appropriate and necessary to comply
19 with the federal Fair Labor Standards Act of 1938 as regards the payment of
20 overtime compensation.

21
22 SECTION 6013. Arkansas Code § 19-4-1612(c), concerning overtime pay,
23 is amended to read as follows:

24 (c) The rules authorized by this section shall not go into effect
25 until the ~~Chief Fiscal Officer of the State~~ Secretary of the Department of
26 Transformation and Shared Services, or the Arkansas Department of
27 Transportation as to its employees, has sought the advice of the Legislative
28 Council.

29
30 SECTION 6014. Arkansas Code § 19-5-1046(a)(2), concerning the Building
31 Authority Division Maintenance Fund, is amended to read as follows:

32 (2) The fund shall be used for the maintenance, operation, and
33 improvement of lands, buildings, and facilities that may be acquired by the
34 Building Authority Division ~~of the Department of Finance and Administration.~~

35
36 SECTION 6015. Arkansas Code § 19-5-1052(b), concerning the Justice

1 Building Fund, is amended to read as follows:

2 (b) The Justice Building Fund shall consist of all moneys transferred
3 or deposited from the State Administration of Justice Fund, there to be used
4 exclusively by the Building Authority Division ~~of the Department of Finance~~
5 ~~and Administration~~ for the maintenance of the Arkansas Justice Building.

6
7 SECTION 6016. Arkansas Code § 19-5-1055 is amended to read as follows:
8 19-5-1055. ~~Department~~ Division of Information Systems Revolving Fund.

9 (a) There is established on the books of the Treasurer of State, the
10 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
11 known as the "~~Department~~ Division of Information Systems Revolving Fund".

12 (b)(1) The fund shall consist of nonrevenue receipts derived from
13 services provided to various agencies of the federal, state, city, and county
14 governments, and any other moneys which may be provided by law.

15 (2) The fund shall be used for the maintenance, operation, and
16 improvement of the ~~Department~~ Division of Information Systems as set out in
17 the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

18

19 SECTION 6017. Arkansas Code § 19-5-1056(b)(1), concerning the
20 Information Technology Reserve Fund, is amended to read as follows:

21 (b)(1) The Information Technology Reserve Fund shall consist of those
22 funds transferred from the ~~Department~~ Division of Information Systems
23 Revolving Fund in an amount up to the authorized reserve for equipment
24 acquisition as certified by the Chief Fiscal Officer of the State within
25 thirty (30) days following the closing of each fiscal year, any loans which
26 may be received from the Budget Stabilization Trust Fund, and any other
27 moneys which may be provided by law.

28

29 SECTION 6018. Arkansas Code § 19-5-1087(a), concerning the Justice
30 Building Construction Fund, is amended to read as follows:

31 (a) There is created in accordance with §§ 19-4-801 – 19-4-803, 19-4-
32 805, 19-4-806, and the Revenue Classification Law, § 19-6-101 et seq., a cash
33 fund entitled the "Justice Building Construction Fund", which shall be
34 maintained in such depository bank or banks as may, from time to time, be
35 designated by the Building Authority Division ~~of the Department of Finance~~
36 ~~and Administration~~.

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SECTION 6019. Arkansas Code § 19-5-1206(b)(2), concerning the Building Authority Division Real Estate Fund, is amended to read as follows:

(2) The Building Authority Division Real Estate Fund shall be used to acquire either by deed or by lease, to own or operate, to maintain, to repair, to renovate, to develop, or to construct real properties, including any necessary demolition and site improvements, for use by state agencies, as defined in § 22-2-102, for capital improvement needs under the jurisdiction of the Building Authority Division ~~of the Department of Finance and Administration.~~

SECTION 6020. Arkansas Code § 19-11-203(14)(Y), concerning the definition of "exempt commodities and services" under the state procurement laws, is amended to read as follows:

(Y) Capital improvements valued at less than twenty thousand dollars (\$20,000), subject to minimum standards and criteria of the Building Authority Division ~~of the Department of Finance and Administration;~~

SECTION 6021. Arkansas Code § 19-11-203(27)(B), concerning the definition of "services" under the state procurement laws, is amended to read as follows:

(B) "Services" shall not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Building Authority Division ~~of the Department of Finance and Administration~~ or higher education Division of Higher Education;

SECTION 6022. Arkansas Code § 19-11-215 is amended to read as follows:
19-11-215. Office of State Procurement.

(a) There is created within the Department of ~~Finance and Administration~~ an Transformation and Shared Services the Office of State Procurement to be administered by the State Procurement Director.

(b)(1) The ~~office~~ Office of State Procurement shall be subject to the supervision and management of the ~~Director of the Department of Finance and Administration~~ Secretary of the Department of Transformation and Shared Services.

1 (2) The rules and regulations authorized in this subchapter
2 shall be approved by the ~~Director of the Department of Finance and~~
3 ~~Administration~~ secretary prior to the filing of the rules and regulations in
4 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
5 seq.

6
7 SECTION 6023. Arkansas Code § 19-11-216(a)(2), concerning the State
8 Procurement Director, is amended to read as follows:

9 (2) The State Procurement Director shall be appointed by the
10 ~~Director of the Department of Finance and Administration~~ Secretary of the
11 Department of Transformation and Shared Services.

12
13 SECTION 6024. Arkansas Code § 19-11-217(b)(1), concerning the powers
14 and duties of the State Procurement Director, is amended to read as follows:

15 (b)(1) Except as otherwise provided in this subchapter and upon the
16 approval of the ~~Director of the Department of Finance and Administration~~
17 Secretary of the Department of Transformation and Shared Services, the State
18 Procurement Director shall have the authority and responsibility to
19 promulgate ~~regulations~~ rules consistent with this subchapter.

20
21 SECTION 6025. Arkansas Code § 19-11-218 is amended to read as follows:

22 19-11-218. Assistants and designees.

23 Subject to the provisions of the Uniform Classification and
24 Compensation Act, § 21-5-201 et seq., and the approval of the Secretary of
25 the Department of Transformation and Shared Services, the State Procurement
26 Director may:

27 (1) Employ and supervise such assistants and other persons as
28 may be necessary;

29 (2) Fix their compensation as provided by law; and

30 (3) Delegate authority to such designees or to any state agency
31 as the director may deem appropriate, within the limitations of state law and
32 the state procurement regulations.

33
34 SECTION 6026. Arkansas Code § 19-11-220(a)(37), concerning agency
35 procurement officials, is amended to read as follows:

36 (37) ~~Department~~ Division of Higher Education.

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SECTION 6027. Arkansas Code § 19-11-220(b)(2), concerning agency procurement officials, is amended to read as follows:

(2)(A) Approval by the Office of State Procurement of contracts administered by the official shall not be required, unless a determination has been made by the ~~Director of the Department of Finance and Administration~~ Secretary of the Department of Transformation and Shared Services that administrative procedures and controls are not adequate.

(B)(i) Such a determination shall result in notification by the ~~Director of the Department of Finance and Administration~~ secretary of the specific deficiencies and the reasons therefor.

(ii) After the notification, approval of contracts by the Office of State Procurement shall be required until the ~~Director of the Department of Finance and Administration~~ secretary determines that the deficiencies have been corrected.

SECTION 6028. Arkansas Code § 19-11-226(b)(3), concerning recommendations to the State Procurement Director, is amended to read as follows:

(3) The ~~Director of the Department of Finance and Administration~~ Secretary of the Department of Transformation and Shared Services may make recommendations to the State Procurement Director.

SECTION 6029. Arkansas Code § 19-11-227 is amended to read as follows:
19-11-227. Statistical data.

The State Procurement Director and the Secretary of the Department of Transformation and Shared Services shall cooperate with the Office of Budget of the Department of Finance and Administration and the Office of Accounting of the Department of Finance and Administration in the preparation of statistical data concerning the procurement and disposition of all commodities and services, unless otherwise provided in this subchapter.

SECTION 6030. Arkansas Code § 19-11-235(b)(2), concerning the responsibility of bidders and offerors, is amended to read as follows:

(2) This section is not intended to prohibit the office from disclosing such information to the Governor, the Attorney General, or the

1 ~~Director of the Department of Finance and Administration~~ Secretary of the
2 Department of Transformation and Shared Services when any of those officers
3 deems it necessary.

4
5 SECTION 6031. Arkansas Code § 19-11-602(a), concerning a purchase for
6 schools and school districts, is amended to read as follows:

7 (a) The ~~Arkansas Department~~ Division of Emergency Management is
8 authorized to purchase surplus commodities, materials, supplies, equipment,
9 and other property from the federal government through any of its agencies
10 for tax-supported schools and for school districts in Arkansas. The
11 ~~department~~ division is authorized to cooperate with the State Procurement
12 Director in the purchase of school items.

13
14 SECTION 6032. Arkansas Code § 19-11-801(a)(1), concerning the use of
15 procurement procedures for legal, architectural, engineering, construction
16 management, and land surveying professional consultant services, is amended
17 to read as follows:

18 (1) State agencies not exempt from review and approval of the
19 Building Authority Division ~~of the Department of Finance and Administration~~
20 shall follow procedures established by the division for the procurement of
21 architectural, engineering, land surveying, and construction management
22 services; and

23
24 SECTION 6033. Arkansas Code § 19-11-902(b)(6)(B), concerning the
25 definition of "services" under the procurement rules for work center products
26 and services, is amended to read as follows:

27 (B) "Services" shall not include employment agreements,
28 collective bargaining agreements, or architectural or engineering contracts
29 requiring approval of the Building Authority Division ~~of the Department of~~
30 ~~Finance and Administration;~~

31
32 SECTION 6034. Arkansas Code § 19-11-1001(3)(D)(i), concerning the
33 definition of "design professional contract" under professional and
34 consultant services contracts, is amended to read as follows:

35 (D)(i) A state agency shall follow applicable Building
36 Authority Division ~~of the Department of Finance and Administration~~

1 guidelines, procedures, and rules for the selection and award of contracts.

2
3 SECTION 6035. Arkansas Code § 19-11-1011(a)(1), concerning the review
4 requirement for professional consultant services contracts, is amended to
5 read as follows:

6 (a)(1) Every contract for professional consultant services covered by
7 this subchapter that is executed using the professional and consultant
8 service contract form approved by the State Procurement Director shall be
9 filed with the Office of State Procurement ~~of the Department of Finance and~~
10 ~~Administration.~~

11
12 SECTION 6036. Arkansas Code § 20-8-404 is amended to read as follows:
13 20-8-404. Rules.

14 The ~~Department~~ Division of Information Systems, Department of Finance
15 and Administration, Department of Health, Department of Human Services, State
16 Insurance Department, and all other appropriate departments, agencies,
17 subcontractors, and officers shall promulgate rules to implement this
18 subchapter.

19
20 SECTION 6037. Arkansas Code § 21-1-103(d), concerning the state
21 employee service recognition program, is amended to read as follows:

22 (d) The ~~Chief Fiscal Officer of the State~~ Secretary of the Department
23 of Transformation and Shared Services shall promulgate reasonable rules and
24 regulations as he or she deems necessary in carrying out the provisions of
25 this service recognition program.

26
27 SECTION 6038. Arkansas Code § 21-1-105(e), concerning state employee
28 benefit programs, is amended to read as follows:

29 (e) The Office of Personnel Management and the Employee Benefits
30 Division ~~of the Department of Finance and Administration~~ shall assist each
31 state agency, board, commission, and institution of higher education in
32 developing an employee benefits program and employee benefits statement.

33
34 SECTION 6039. Arkansas Code § 21-1-604(f)(3), concerning civil
35 liability for violations of the Arkansas Whistle-Blower Act, is amended to
36 read as follows:

1 (3) ~~The Director of the Department of Finance and Administration~~
2 Secretary of the Department of Transformation and Shared Services shall adopt
3 voluntary mediation application and request forms.
4

5 SECTION 6040. Arkansas Code § 21-1-704(c)(2)(A)(ii), concerning
6 nonbinding mediation, is amended to read as follows:

7 (ii) The mediator shall report within ten (10)
8 business days of the nonbinding mediation his or her suggested resolution to
9 the ~~Director of the Department of Finance and Administration~~ Secretary of the
10 Department of Transformation and Shared Services.
11

12 SECTION 6041. Arkansas Code § 21-4-214(a)(1), concerning the
13 catastrophic leave program, is amended to read as follows:

14 (a)(1) ~~The Department of Finance and Administration~~ Department of
15 Transformation and Shared Services shall have administrative responsibility
16 for developing, implementing, and maintaining the statewide catastrophic
17 leave bank program.
18

19 SECTION 6042. The introductory language of Arkansas Code § 21-4-
20 214(g), concerning the catastrophic leave program, is amended to read as
21 follows:

22 (g) ~~The Director of the Department of Finance and Administration~~
23 Secretary of the Department of Transformation and Shared Services, or the
24 ~~director's~~ secretary's designee, shall establish policies and procedures:
25

26 SECTION 6043. Arkansas Code § 21-5-211(c)(1)(A), concerning salary
27 adjustments and the implementation procedure for grade changes, is amended to
28 read as follows:

29 (A) The Chief Fiscal Officer of the State and the
30 Secretary of the Department of Transformation and Shared Services ~~determines~~
31 determine that sufficient general revenues become available; and
32

33 SECTION 6044. Arkansas Code § 21-5-211(d), concerning salary
34 adjustments and the implementation procedure for grade changes, is amended to
35 read as follows:

36 (d)(1) If the Chief Fiscal Officer of the State and the Secretary of

1 the Department of Transformation and Shared Services ~~determines~~ determine
2 that general revenue funds are insufficient to implement the salary increases
3 authorized in this subchapter or by any other law that affects salary
4 increases for state employees, the Chief Fiscal Officer of the State and the
5 Secretary of the Department of Transformation and Shared Services upon
6 approval by the Governor may reduce the percentage of all authorized salary
7 increases for all state employees covered by this subchapter without regard
8 to whether or not the employees are compensated from general or special
9 revenues, federal funds, or trust funds.

10 (2) However, if sufficient general revenues should then become
11 available at any time during the year to provide the maximum additional
12 salary increases for all state employees without regard to the source of
13 revenues, salary increases for state employees provided for in this
14 subchapter or by any other law may be fully implemented by the Chief Fiscal
15 Officer of the State and the Secretary of the Department of Transformation
16 and Shared Services.

17 (3) Any salary adjustments made by the Chief Fiscal Officer of
18 the State and the Secretary of the Department of Transformation and Shared
19 Services in accordance with this subsection shall be reported to the
20 Legislative Council or, if the General Assembly is in session, the Joint
21 Budget Committee.

22
23 SECTION 6045. Arkansas Code § 21-5-214(c)(1) and (2), concerning new
24 appointments and other compensation plan provisions, are amended to read as
25 follows:

26 (c)(1) A state agency may request a special rate of pay for a specific
27 classification or position due to prevailing market rates of pay up to the
28 midpoint pay level of the appropriate grade of a classification on the
29 appropriate pay table for the assigned grade with the written approval of the
30 ~~Chief Fiscal Officer of the State~~ Secretary of the Department of
31 Transformation and Shared Services.

32 (2) A state agency may request a special rate of pay for a
33 specific classification or position due to prevailing market rates of pay up
34 to the maximum pay level for the assigned grade only with the approval of the
35 ~~Chief Fiscal Officer of the State~~ Secretary of the Department of
36 Transformation and Shared Services after review by the Legislative Council

1 or, if the General Assembly is in session, the Joint Budget Committee.

2
3 SECTION 6046. Arkansas Code § 21-5-214(f)(1)(A), concerning new
4 appointments and other compensation plan provisions, is amended to read as
5 follows:

6 (f)(1)(A) An employee who is promoted ~~on or after July 1, 2017,~~ shall
7 receive a salary increase up to ten percent (10%).

8
9 SECTION 6047. Arkansas Code § 21-5-214(i), concerning new appointments
10 and other compensation plan provisions, is amended to read as follows:

11 (i) An employee ~~who is~~ whose salary would be above the maximum salary
12 level of the new grade after being placed in a lower-graded position on the
13 same pay table because the original position has expired due to lack of
14 funding, program changes, reorganization, or withdrawal of federal grant
15 funds may continue to be paid at the same rate as the employee was being paid
16 in the higher-graded position upon approval of the Office of Personnel
17 Management after seeking the review of the Legislative Council or, if the
18 General Assembly is in session, the Joint Budget Committee.

19
20 SECTION 6048. Arkansas Code § 21-5-214(n), concerning new appointments
21 and other compensation plan provisions, is amended to read as follows:

22 (n) The ~~Chief Fiscal Officer of the State~~ Secretary of the Department
23 of Transformation and Shared Services or the Governor may suspend
24 discretionary special salary actions.

25
26 SECTION 6049. Arkansas Code § 21-5-220(c)(3)(B) and (C), concerning
27 shift differentials, are amended to read as follows:

28 (B) The shift schedule, job classifications, positions,
29 and the percentage of shift differential for which the job titles will be
30 eligible shall be submitted to the Office of Personnel Management for
31 approval by the ~~Chief Fiscal Officer of the State~~ Secretary of the Department
32 of Transformation and Shared Services.

33 (C) Subsequent changes to the shift schedule, job
34 classifications, positions, and shift differential percentages shall be
35 submitted to the Office of Personnel Management and receive prior approval by
36 the ~~Chief Fiscal Officer of the State~~ Secretary of the Department of

1 Transformation and Shared Services.

2

3 SECTION 6050. Arkansas Code § 21-5-221(c)(2)(B) and (C), concerning
4 compensation differentials, are amended to read as follows:

5 (B) The positions shall be certified by the state agency
6 director as having been assigned to a work environment that poses an
7 increased risk of personal injury and shall be submitted as part of the plan
8 for payment of hazardous duty differential to the Office of Personnel
9 Management for approval by the Secretary of the Department of Transformation
10 and Shared Services in consultation with the Chief Fiscal Officer of the
11 State after review and approval of the Legislative Council or, if the
12 General Assembly is in session, the Joint Budget Committee.

13 (C) Subsequent changes to the facility or unit, location,
14 and eligible positions or classifications within the facility or unit on file
15 with the Office of Personnel Management shall receive prior approval by the
16 ~~Chief Fiscal Officer of the State~~ Secretary of the Department of
17 Transformation and Shared Services after review and approval by the
18 Legislative Council or, if the General Assembly is in session, the Joint
19 Budget Committee.

20

21 SECTION 6051. Arkansas Code § 21-5-221(d), concerning compensation
22 differentials, is amended to read as follows:

23 (d) It is the intent of this subsection that hazardous duty
24 compensation shall be at the discretion of the ~~Chief Fiscal Officer of the~~
25 ~~State~~ Secretary of the Department of Transformation and Shared Services and
26 the director of the state agency and shall not be implemented using funds
27 specifically set aside for other programs within the state agency.

28

29 SECTION 6052. Arkansas Code § 21-5-222(a)(1)(D) and (E), concerning
30 salary administration grids, are amended to read as follows:

31 (D) Salary administration grid has been submitted to the
32 Office of Personnel Management for approval by the ~~Chief Fiscal Officer of~~
33 ~~the State~~ Secretary of the Department of Transformation and Shared Services
34 up to the midpoint pay level; and

35 (E)(i) Salary administration grid has been submitted to
36 the Office of Personnel Management for approval by the ~~Chief Fiscal Officer~~

1 ~~of the State~~ Secretary of the Department of Transformation and Shared
2 Services above the midpoint pay level.

3 (ii) ~~The Chief Fiscal Officer of the State~~ Secretary
4 of the Department of Transformation and Shared Services shall not approve the
5 salary administration grid in this subdivision (a)(1)(E) until the salary
6 administration grid has been reviewed by the Legislative Council or, if the
7 General Assembly is in session, the Joint Budget Committee.

8
9 SECTION 6053. The introductory language of Arkansas Code § 21-5-
10 223(a)(1), concerning severance pay, is amended to read as follows:

11 (a)(1) If the agency director determines that it is necessary to
12 implement the state workforce reduction policy due to state agency
13 organization structure change, budgetary reductions, abolishment of positions
14 or duties, loss of functional responsibility by the state agency, or the loss
15 of federal funding, grants, or other special funds, the agency director, upon
16 approval by the ~~Chief Fiscal Officer of the State~~ Secretary of the Department
17 of Transformation and Shared Services, may authorize the payment of funds on
18 a regular payroll schedule as severance pay to full-time, part-time, and job
19 sharing classified and nonclassified employees in regular positions affected
20 by the workforce reduction on the basis of the following pro rata lump sum
21 for completed years of service, including any formally implemented
22 probationary period:

23
24 SECTION 6054. Arkansas Code § 21-5-402(a)(1)(I), concerning the
25 creation and members of the State and Public School Life and Health Insurance
26 Board, is amended to read as follows:

27 (I) ~~The Executive~~ Director of the Arkansas State Board of
28 Pharmacy or his or her state employee pharmacist designee;

29
30 SECTION 6055. Arkansas Code § 21-5-403 is amended to read as follows:
31 21-5-403. Policy-making body only – Reports.

32 (a) The State and Public School Life and Health Insurance Board is a
33 policy-making body only.

34 (b) ~~The Executive~~ Director of the Employee Benefits Division ~~of the~~
35 ~~Department of Finance and Administration~~ and the board shall report upon
36 request to the House Committee on Insurance and Commerce and the Senate

1 Committee on Insurance and Commerce regarding the State and Public School
2 Life and Health Insurance Program.

3

4 SECTION 6056. Arkansas Code § 21-5-404(12)(B)(i)(a)(1), concerning the
5 powers, functions, and duties of the State and Public School Life and Health
6 Insurance Board, is amended to read as follows:

7 (1) The ~~Executive~~ Director of the
8 Arkansas State Board of Pharmacy or his or her pharmacist designee;

9

10 SECTION 6057. Arkansas Code § 21-5-405(a)(1), concerning the
11 additional duties of the State and Public School Life and Health Insurance
12 Board, is amended to read as follows:

13 (a)(1) The State and Public School Life and Health Insurance Board and
14 the ~~Executive~~ Director of the Employee Benefits Division ~~of the Department of~~
15 ~~Finance and Administration~~ shall take a risk management approach in designing
16 the State and Public School Life and Health Insurance Program.

17

18 SECTION 6058. Arkansas Code § 21-5-405(b)(4)(B)(ii), concerning the
19 additional duties of the State and Public School Life and Health Insurance
20 Board, is amended to read as follows:

21 (ii) Agree to rules of program participation as
22 stated in the policies adopted by the board and as defined in the regulations
23 and procedures issued by the ~~Executive~~ Director of the Employee Benefits
24 Division ~~of the Department of Finance and Administration~~, including without
25 limitation timely eligibility reporting, prepayment of insurance premiums,
26 actuarial adjustment for new enrollees, and any other requirements deemed
27 necessary by the board;

28

29 SECTION 6059. Arkansas Code § 21-5-406 is amended to read as follows:

30 21-5-406. ~~Executive director~~ Director – Staff.

31 (a)(1) The State and Public School Life and Health Insurance Board
32 shall choose the ~~Executive~~ Director of the Employee Benefits Division ~~of the~~
33 ~~Department of Finance and Administration~~ with the approval of the ~~Director of~~
34 ~~the Department of Finance and Administration~~ Secretary of the Department of
35 Transformation and Shared Services.

36 (2)(A) The ~~Executive Director of the Employee Benefits Division~~

1 ~~of the Department of Finance and Administration~~ director shall be employed by
2 and serve at the pleasure of the ~~Director of the Department of Finance and~~
3 ~~Administration~~ secretary, and shall perform all duties in consultation with
4 the secretary.

5 (B) However, the board may recommend the removal of the
6 ~~Executive Director of the Employee Benefits Division of the Department of~~
7 ~~Finance and Administration~~ director, but removal is subject to the approval
8 of the ~~Director of the Department of Finance and Administration~~ secretary.

9 (3) The ~~Executive Director of the Employee Benefits Division of~~
10 ~~the Department of Finance and Administration~~ director shall employ staff
11 adequate to manage the State and Public School Life and Health Insurance
12 Program within the funds appropriated for the program within the Department
13 of ~~Finance and Administration~~ Transformation and Shared Services.

14 (b) The ~~Executive Director of the Employee Benefits Division of the~~
15 ~~Department of Finance and Administration~~ director shall establish internal
16 controls for the fiscal management of the program.

17 (c)(1) The ~~Executive Director of the Employee Benefits Division of the~~
18 ~~Department of Finance and Administration~~ director and his or her staff shall
19 be located in the Employee Benefits Division ~~of the Department of Finance and~~
20 ~~Administration.~~

21 (2) Funds collected from employers, participating employees,
22 retirees, and any other sources for the program, including plan options
23 offered under the program, shall be used solely to pay medical claims, drug
24 claims, premiums, benefits, and direct administrative expenses of the
25 program.

26 (d) The ~~Executive Director of the Employee Benefits Division of the~~
27 ~~Department of Finance and Administration~~ director shall administer this
28 subchapter and the rules and orders of the division and the board.

29 (e)(1) The ~~Executive Director of the Employee Benefits Division of the~~
30 ~~Department of Finance and Administration~~ director may require all
31 participating entities to appoint health insurance representatives who shall
32 adhere to the policies adopted by the board and the rules and procedures
33 issued by the ~~Executive Director of the Employee Benefits Division of the~~
34 ~~Department of Finance and Administration~~ director in managing the enrollment
35 and premium payment processes of the state agency or school district.

36 (2) The ~~Executive Director of the Employee Benefits Division of~~

1 ~~the Department of Finance and Administration~~ director may request the removal
2 of a health insurance representative to ensure necessary internal controls.

3 (3)(A) The ~~Executive Director of the Employee Benefits Division~~
4 ~~of the Department of Finance and Administration~~ director has the authority to
5 supervise the implementation and day-to-day management of the program and
6 other employee benefits, plans, and individual and group policies made
7 available to participants, if applicable.

8 (B) The authority granted under subdivision (e)(3)(A) of
9 this section includes without limitation supervising:

10 (i) Life insurance coverage;
11 (ii) Accident coverage;
12 (iii) Dental coverage;
13 (iv) Disability benefit programs;
14 (v) Optional retirement programs;
15 (vi) Deferred compensation;
16 (vii) Cafeteria plans; and
17 (viii) Such other benefit plans, benefit programs,
18 and individual and group benefit coverage that are offered from time to time
19 to state employees, state employee retirees, public school employees, and
20 public school employee retirees.

21 (C) The authority granted under subdivision (e)(3)(A) of
22 this section does not include supervising the State Employees Benefit
23 Corporation benefit plan in effect on July 1, 1995.

24 (D) In addition, the ~~Executive Director of the Employee~~
25 ~~Benefits Division of the Department of Finance and Administration~~ director
26 and the board may utilize the services of healthcare consultants and
27 actuaries if necessary as provided for through the appropriation of the
28 division.

29 (E) The Arkansas State Police Employee Health Plan is
30 exempt from any mandatory participation required by this section.

31
32 SECTION 6060. Arkansas Code § 21-5-411(a)(2)(A)(ii), concerning
33 eligibility of certain retired employs to participate in the State and Public
34 School Life and Health Insurance Program, is amended to read as follows:

35 (ii) The election to enroll in the program shall be
36 made within thirty (30) days of the state employee retiree's or public school

1 employee retiree's becoming an active retiree and shall be made in writing to
2 the Employee Benefits Division ~~of the Department of Finance and~~
3 ~~Administration~~ on forms required by the division.
4

5 SECTION 6061. Arkansas Code § 21-5-412(b)(2)(B)(i), concerning
6 eligibility of certain elected officials to participate in the State and
7 Public School Life and Health Insurance Program, is amended to read as
8 follows:

9 (B)(i) An elected official qualifying for continuation of
10 participation in the program under this subsection shall be considered an
11 eligible inactive retiree and shall have thirty-one (31) days from the
12 effective date of termination to elect to continue program participation by
13 notifying the Employee Benefits Division ~~of the Department of Finance and~~
14 ~~Administration~~ in writing on forms required by the division.
15

16 SECTION 6062. Arkansas Code § 21-5-414(a), concerning partial state
17 contribution of employees' premiums, is amended to read as follows:

18 (a) The Department of ~~Finance and Administration~~ Transformation and
19 Shared Services shall seek the advice of the Legislative Council and the
20 House Committee on Insurance and Commerce and the Senate Committee on
21 Insurance and Commerce before additional state contributions can be made to
22 the State and Public School Life and Health Insurance Program on behalf of
23 state employees.
24

25 SECTION 6063. Arkansas Code § 21-5-415(a)(1), concerning nonpayment of
26 premiums and failure to file reports by an agency or a school district, is
27 amended to read as follows:

28 (a)(1) If any participating state agency or school district does not
29 remit insurance premiums and required monthly reports to the Employee
30 Benefits Division ~~of the Department of Finance and Administration~~ by the last
31 calendar day of each billing month, the division shall impose a penalty of
32 two dollars (\$2.00) per insured member or one hundred dollars (\$100),
33 whichever is greater.
34

35 SECTION 6064. The introductory language of Arkansas Code § 21-5-
36 415(b)(1), concerning nonpayment of premiums and failure to file reports by

1 an agency or a school district, is amended to read as follows:

2 (b)(1) If a participating entity or participating institution fails to
3 follow established policy and procedures set by the ~~Executive~~ Director of the
4 Employee Benefits Division ~~of the Department of Finance and Administration,~~
5 including without limitation notifying the division of an insured's leave
6 without pay, family medical leave, or military leave status or if any
7 participating entity or participating institution provides incorrect benefit
8 information or processes unauthorized benefit changes, including system
9 entries that result in unreimbursed expenses to the State Employees Benefit
10 Trust Fund or Public School Insurance Trust Fund, the division may:

11

12 SECTION 6065. Arkansas Code § 21-5-416(2), concerning annual
13 performance audits, is amended to read as follows:

14 (2) Employee Benefits Division ~~of the Department of Finance and~~
15 ~~Administration.~~

16

17 SECTION 6066. Arkansas Code § 21-5-417 is amended to read as follows:

18 21-5-417. State contribution for employee receiving workers'
19 compensation.

20 Notwithstanding any other provisions of the law, a state agency shall
21 remit the employer's contribution for a state employee participating in the
22 State and Public School Life and Health Insurance Program to the Employee
23 Benefits Division ~~of the Department of Finance and Administration~~ when the
24 state employee is:

25 (1) In a leave-without-pay status because of a work-related
26 injury; and

27 (2) Receiving benefits from workers' compensation.

28

29 SECTION 6067. Arkansas Code § 21-5-1101(a)(1), concerning the merit
30 increase pay system, is amended to read as follows:

31 (a)(1) The ~~Department of Finance and Administration~~ Department of
32 Transformation and Shared Services is authorized to develop and establish a
33 merit increase pay system in accordance with the performance evaluation
34 process under § 21-5-1001 et seq. for employees of all state agencies,
35 boards, and commissions covered by the Uniform Classification and
36 Compensation Act, § 21-5-201 et seq.

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SECTION 6068. Arkansas Code § 21-5-1202(b), concerning emergency activities and compensation of employees of state agencies and state-supported institutions of higher education, is amended to read as follows:

(b) The ~~Department of Finance and Administration~~ Department of Transformation and Shared Services shall establish appropriate procedures for the administration of this section.

SECTION 6069. Arkansas Code § 21-11-104(a), concerning rules and procedures for submission of suggestions to the Employee Suggestion System, is amended to read as follows:

(a) The ~~Director of the Department of Finance and Administration~~ Secretary of the Department of Transformation and Shared Services, or his or her designee, is directed to develop and adopt rules and regulations in accordance with this chapter for the administration of the Employee Suggestion System.

SECTION 6070. Arkansas Code § 21-11-105(a)(2), concerning the creation of the Suggestion Award Board, is amended to read as follows:

(2) The membership of the board shall consist of the ~~Director of the Department of Finance and Administration~~ Secretary of the Department of Transformation and Shared Services, the ~~Personnel Director~~ State Personnel Administrator, who shall serve as chair, and the cochairs of the Legislative Council.

SECTION 6071. Arkansas Code § 21-11-109(a), concerning funding and appropriations, is amended to read as follows:

(a) No agency, board, or commission shall receive additional appropriations or funds to carry out this chapter except the Office of Personnel Management ~~of the Division of Management Services of the Department of Finance and Administration~~, which shall be allocated funds and appropriations to administer it.

SECTION 6072. Arkansas Code § 22-2-102(2), concerning the definition of "minimum standards and criteria" under the Building Authority Division Act, is amended to read as follows:

1 (2) "Minimum standards and criteria" and other like phrases mean
2 those standards and criteria relating to construction, design, maintenance,
3 and leasing of state agencies' capital improvements as adopted by the
4 Building Authority Division ~~of the Department of Finance and Administration~~
5 after appropriate public hearings and notice to the public and interested
6 persons and organizations;

7
8 SECTION 6073. Arkansas Code § 22-2-104 is amended to read as follows:
9 22-2-104. Creation of Building Authority Division.

10 (a) ~~The Building Authority Division of the Department of Finance and~~
11 ~~Administration is created~~ There is created within the Department of
12 Transformation and Shared Services the Building Authority Division.

13 (b) The division shall carry out the duties and responsibilities set
14 out in § 22-2-108 under the policies, guidelines, standards, and procedures
15 established by the Department of ~~Finance and Administration~~ Transformation
16 and Shared Services.

17
18 SECTION 6074. Arkansas Code § 22-2-105 is amended to read as follows:
19 22-2-105. ~~Director~~ Secretary of the Department of ~~Finance and~~
20 ~~Administration~~ Transformation and Shared Services – Duties.

21 (a) The ~~Director~~ Secretary of the Department of ~~Finance and~~
22 ~~Administration~~ Transformation and Shared Services may hire sufficient staff
23 as authorized by legislation to perform the duties of the Building Authority
24 Division ~~of the Department of Finance and Administration~~. Personnel employed
25 by the ~~director~~ secretary shall be compensated according to the Uniform
26 Classification and Compensation Act, § 21-5-201 et seq., for similar duties
27 and responsibilities.

28 (b) The ~~director~~ secretary shall be responsible for administering the
29 rules, regulations, and policies adopted by the Department of ~~Finance and~~
30 ~~Administration~~ Transformation and Shared Services pursuant to the provisions
31 of this chapter.

32 (c) The ~~director~~ secretary shall be the disbursing agent for the
33 division and shall pay any and all accounts. The disbursing agent shall
34 furnish and keep in effect a bond to the state with a corporate surety
35 thereon which, together with any other bonds furnished by him or her, shall
36 total in final sum not less than fifty thousand dollars (\$50,000) and is

1 conditioned that he or she will faithfully perform his or her duties and
2 properly handle all funds received and disbursed by him or her and account
3 for those funds. The bond so furnished shall be filed in the office of the
4 Auditor of State. The premium on the bond shall be a proper charge against
5 funds of the division.

6
7 SECTION 6075. The introductory language of Arkansas Code § 22-2-
8 107(a), concerning the creation of Building Authority Division sections, is
9 amended to read as follows:

10 (a) There are created within the Building Authority Division ~~of the~~
11 ~~Department of Finance and Administration~~ the following sections which shall
12 have the duties and responsibilities designated by the ~~Director~~ Secretary of
13 the Department of ~~Finance and Administration~~ Transformation and Shared
14 Services and which may include, in relation to other provisions of this
15 chapter, the duties and responsibilities respectively designated in this
16 section:

17
18 SECTION 6076. The introductory language of Arkansas Code § 22-2-108 is
19 amended to read as follows:

20 As may be provided, allowed, or limited by the provisions of this
21 chapter, the ~~Director of the Department of Finance and Administration~~
22 Secretary of the Department of Transformation and Shared Services may
23 establish policies, guidelines, standards, and procedures which shall guide
24 and govern the Building Authority Division ~~of the Department of Finance and~~
25 ~~Administration~~ with regard to the following responsibilities, duties, powers,
26 and activities:

27
28 SECTION 6077. Arkansas Code § 22-2-109(a)(2), concerning the
29 acquisition of additional sites, is amended to read as follows:

30 (2) In the alternative, a site may be obtained by the Building
31 Authority Division ~~of the Department of Finance and Administration~~ by gift,
32 purchase, or, within Pulaski County, Arkansas, by condemnation under the
33 power of eminent domain.

34
35 SECTION 6078. Arkansas Code § 22-2-110 is amended to read as follows:
36 22-2-110. Schedule of supervision generally.

1 The powers, authorities, and responsibilities of the ~~Director of the~~
2 ~~Department of Finance and Administration~~ Secretary of the Department of
3 Transformation and Shared Services relating to the acquisition of properties
4 and to the supervision of all capital improvements, as defined in § 22-2-102,
5 shall be in accordance with the schedules of supervision as provided in §§
6 22-2-111 – 22-2-113.

7
8 SECTION 6079. The introductory language of Arkansas Code § 22-2-111,
9 concerning the schedule of supervision for type 1 undesignated funds, is
10 amended to read as follows:

11 From the funds appropriated by the General Assembly to the Building
12 Authority Division ~~of the Department of Finance and Administration~~ not
13 designated to be spent for a particular public building or capital
14 improvement for a particular state agency, the division shall:

15
16 SECTION 6080. Arkansas Code § 22-2-112(a) and (b), concerning the
17 schedule of supervision for type 2 designated funds, are amended to read as
18 follows:

19 (a) From the funds appropriated by the General Assembly to the
20 Building Authority Division ~~of the Department of Finance and Administration~~
21 for the construction or purchase of a particular building or capital
22 improvement which is specifically designated to be purchased, constructed, or
23 improved for a particular state agency, the division shall carry out the
24 powers, authorities, and responsibilities in respect to that construction or
25 purchase as designated in § 22-2-111.

26 (b) The division shall review and approve architectural and
27 engineering design plans and construction plans to ensure compliance with
28 minimum design and construction standards and criteria promulgated by the
29 ~~Director of the Department of Finance and Administration~~ Secretary of the
30 Department of Transformation and Shared Services pursuant to this chapter.

31
32 SECTION 6081. The introductory language of Arkansas Code § 22-2-
33 113(a), concerning the schedule of supervision for type three contracts, is
34 amended to read as follows:

35 (a) In all other cases, within or without Pulaski County, Arkansas,
36 when the construction of public buildings or capital improvements is

1 undertaken or is presently being undertaken or is authorized but not
2 presently under contract by or for a state agency, then the Building
3 Authority Division ~~of the Department of Finance and Administration~~ shall
4 serve in a technical advisory capacity to advise an agency in relation to
5 that agency's capital improvement and to perform review and approval duties,
6 specifically including, but not limited to, the provision and performance of
7 the following services and duties:

8
9 SECTION 6082. Arkansas Code § 22-2-113(a)(2), concerning the schedule
10 of supervision for type three cases when constructing public buildings or
11 capital improvements, is amended to read as follows:

12 (2) Assist the agency in reviewing architectural proposals and
13 advising the agency in the selection of persons to perform architectural and
14 engineering services, but the agency shall have the responsibility of
15 selecting those persons. However, nothing in this subdivision (a)(2) shall
16 affect the power and responsibility of the ~~division~~ Building Authority
17 Division to review and approve architectural and engineering design plans and
18 to negotiate contracts for architects' and engineers' services as otherwise
19 provided in this section;

20
21 SECTION 6083. Arkansas Code § 22-2-113(a)(3), concerning the schedule
22 of supervision for type three contracts, is amended to read as follows:

23 (3) Review and approve architectural and engineering plans and
24 designs to ensure compliance with minimum design and construction standards
25 and criteria promulgated by the ~~Director of the Department of Finance and~~
26 ~~Administration~~ Secretary of the Department of Transformation and Shared
27 Services pursuant to this chapter;

28
29 SECTION 6084. Arkansas Code § 22-2-113(a)(6), concerning the schedule
30 of supervision for type three cases when constructing public buildings or
31 capital improvements, is amended to read as follows:

32 (6) Advise and assist the agency in the selection of persons to
33 perform construction services, but the agency shall have the responsibility
34 of selecting the persons to perform the services. However, nothing in this
35 subdivision (a)(6) shall affect the powers and responsibilities of the
36 ~~division~~ Building Authority Division consistent with subdivisions (a)(7) and

1 (8) of this section;

2

3 SECTION 6085. Arkansas Code § 22-2-113(a)(7)(A), concerning the
4 schedule of supervision and type three designated funds and all other cases
5 regarding the construction of public buildings or capital improvements, is
6 amended to read as follows:

7 (7)(A) Review and approve construction plans to ensure
8 compliance with minimum construction standards and criteria promulgated by
9 the ~~director~~ secretary as provided in this chapter.

10

11 SECTION 6086. Arkansas Code § 22-2-113(a)(7)(B)(ii), concerning the
12 schedule of supervision for type three cases when constructing public
13 buildings or capital improvements, is amended to read as follows:

14 (ii) The State Parks, Recreation, and Travel
15 Commission shall ensure that an unpaved trail project created under this
16 subdivision (a)(7) meets the standards for observation by registered
17 professionals as established by the ~~division~~ Building Authority Division;

18

19 SECTION 6087. Arkansas Code § 22-2-113(a)(9) and (10), concerning the
20 schedule of supervision and type three designated funds and all other cases
21 regarding the construction of public buildings or capital improvements, are
22 amended to read as follows:

23 (9) Assist and advise the state agency as to the operation,
24 management, and maintenance of the capital improvement. However, the
25 operation, management, and maintenance shall be in accordance with minimum
26 standards as promulgated by the ~~director~~ secretary; and

27 (10) Otherwise take such action as may be necessary to carry out
28 the policies, standards, criteria, and other rules and regulations as may be
29 adopted or promulgated by the ~~director~~ secretary to implement the provisions
30 of this chapter.

31

32 SECTION 6088. Arkansas Code § 22-2-113(b), concerning the schedule of
33 supervision for type three cases when constructing public buildings or
34 capital improvements, is amended to read as follows:

35 (b)(1) The boards of trustees of the University of Arkansas, Arkansas
36 State University, University of Central Arkansas, Henderson State University,

1 Arkansas Tech University, and Southern Arkansas University, respectively, are
2 exempt from review, consultation, assistance, advice, and approval by the
3 ~~division~~ Building Authority Division for those items listed in subsection (a)
4 of this section. Upon approval of the ~~Department~~ Division of Higher
5 Education, the governing boards of all other public institutions of higher
6 education shall be exempt from review and approval by the ~~division~~ Building
7 Authority Division for those items listed in subsection (a) of this section.
8 However, prior to granting such approval, the ~~Department~~ Division of Higher
9 Education shall have reviewed and approved policies and procedures adopted by
10 the governing board with respect to bidding and construction of capital
11 improvement projects. Nothing in this subdivision (b)(1) shall prevent any of
12 the foregoing institutions exempt from review and approval of the ~~division~~
13 Building Authority Division from entering into an agreement with the ~~division~~
14 Building Authority Division to provide reviews and approval of all items
15 listed in subsection (a) of this section.

16 (2) However, any of the foregoing boards which are exempt as set
17 forth in subdivision (b)(1) of this section and which do not enter into an
18 agreement with the ~~division~~ Building Authority Division shall adopt policies
19 and procedures involving the bidding and awarding of capital improvement
20 contracts and shall furnish such policies and procedures to the ~~Department~~
21 Division of Higher Education for its review and advice. It is the intention
22 of this section that any and all adopted policies and procedures pertaining
23 to the bidding and awarding of capital improvement contracts from public
24 funds as stated herein shall provide a uniformity among the foregoing
25 institutions with respect to the policies and procedures to be followed.

26
27 SECTION 6089. The introductory language of Arkansas Code § 22-2-
28 114(a), concerning leasing responsibilities of the Building Authority
29 Division, is amended to read as follows:

30 (a) It is the intent of the General Assembly that state agencies be
31 housed, whenever possible, in public buildings as soon as space and
32 facilities in public buildings are available and that the acquisition and
33 granting of leasehold interests in land be regulated and supervised by the
34 Building Authority Division ~~of the Department of Finance and Administration~~.
35 The division and all other state agencies are authorized and directed to
36 implement that intent as follows:

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SECTION 6090. Arkansas Code § 22-2-114(a)(2), concerning leasing responsibilities of the Building Authority Division, is amended to read as follows:

(2) All state agencies and component parts thereof, when requested by the division, shall execute and enter into leases with the division for the leasing or renting of space and facilities in any public buildings. The leases may be upon such conditions, for such terms, for such rentals, and may contain such other provisions that the Department of ~~Finance and Administration~~ Transformation and Shared Services and the state agency involved determine to be appropriate and in the best interests of all concerned;

SECTION 6091. Arkansas Code § 22-2-114(a)(3) and (4), concerning leasing responsibilities of the Building Authority Division, are amended to read as follows:

(3) Any state agency or component part thereof needing new or additional space shall notify the division, and the division shall prepare a lease for the space based upon the standards and criteria as adopted by the ~~Director of the Department of Finance and Administration~~ Secretary of the Department of Transformation and Shared Services. If space is available in a public building, the lease will be negotiated for placement in the public building;

(4) If the Real Estate Services Section of the Building Authority Division ~~of the Department of Finance and Administration~~ determines that adequate space is not available in public buildings, the Real Estate Services Section shall act as provided in subdivision (a)(1) of this section to obtain adequate space from a privately owned facility;

SECTION 6092. Arkansas Code § 22-2-114(a)(5)(A)(i), concerning leasing responsibilities of the Building Authority Division, is amended to read as follows:

(5)(A)(i) The ~~director~~ secretary shall adopt standards and criteria for the leasing and utilization of space and the allocation of space to state agencies.

1 SECTION 6093. Arkansas Code § 22-2-114(a)(6), concerning leasing
2 responsibilities of the Building Authority Division, is amended to read as
3 follows:

4 (6) Leases as to office space, buildings, structures, parking
5 lots, and grounds from private individuals, firms, and corporations by state
6 agencies and component parts thereof shall be on a standard lease form
7 approved by the ~~director~~ secretary. The standard lease form shall contain all
8 terms and conditions deemed necessary based on the type and purpose of the
9 leased property. The ~~director~~ secretary also shall adopt a standard lease
10 form to be used by state agencies when subleasing from the division. Both
11 standard lease forms shall be approved as to the legality of form and content
12 by the Attorney General before becoming a requirement; and
13

14 SECTION 6094. Arkansas Code § 22-2-115(a), concerning lease-purchase
15 agreements, is amended to read as follows:

16 (a) For the express purpose of providing adequate office facilities,
17 the ~~Director of the Department of Finance and Administration~~ Secretary of the
18 Department of Transformation and Shared Services, acting as the primary
19 lessor, may enter into lease-purchase agreements to obtain facilities for
20 state agencies. Each lease-purchase agreement shall contain a provision
21 whereby the agreement shall be cancelled at the close of each fiscal
22 biennium, if necessary, if funds for the payment of the rent under the lease-
23 purchase agreement will not be available.
24

25 SECTION 6095. Arkansas Code § 22-2-115(b)(1), concerning lease-
26 purchase agreements, is amended to read as follows:

27 (b)(1) The ~~director~~ secretary shall make the final determination
28 regarding the location or construction of facilities with the advice and
29 consent of the appropriate state agency.
30

31 SECTION 6096. Arkansas Code § 22-2-116(a), concerning maintenance
32 responsibilities of the Building Authority Division, is amended to read as
33 follows:

34 (a) The Building Authority Division ~~of the Department of Finance and~~
35 ~~Administration~~ shall provide for the management, maintenance, and operation
36 of public buildings as may be required by the provisions and implementation

1 of this chapter, or as may otherwise be required by law.

2
3 SECTION 6097. The introductory language of Arkansas Code § 22-2-
4 117(a), concerning maintenance responsibilities of the Building Authority
5 Division for the Capitol Zoning District, is amended to read as follows:

6 (a) As to all presently existing public buildings and capital
7 improvements within the Capitol Zoning District, as zoned by § 22-3-302(a),
8 any person or entity responsible for the custody, management, maintenance,
9 repair, operation, or landscaping of such public buildings and capital
10 improvements and their grounds shall be accountable to the Building Authority
11 Division ~~of the Department of Finance and Administration~~ as follows:

12
13 SECTION 6098. Arkansas Code § 22-2-118 is amended to read as follows:
14 22-2-118. Plans, specifications, and estimates of costs.

15 The Building Authority Division ~~of the Department of Finance and~~
16 ~~Administration~~ is authorized to employ, except as limited by § 22-2-108(9),
17 such persons as may be necessary to prepare plans, specifications, and
18 estimates of costs for capital improvements which, under the provisions of
19 this chapter, are the responsibility of the division.

20
21 SECTION 6099. Arkansas Code § 22-2-120 is amended to read as follows:
22 22-2-120. Exemption from statutes concerning Capitol Zoning District.

23 (a) The construction, acquisition, management, maintenance, or
24 operation of capital improvements and public buildings by the Building
25 Authority Division ~~of the Department of Finance and Administration~~ under this
26 chapter is declared to be exempt from the operation and implementation of the
27 provisions of §§ 22-3-301 – 22-3-311.

28 (b) ~~The Director of the Department of Finance and Administration~~
29 Secretary of the Department of Transformation and Shared Services shall
30 endeavor to cooperate with the Capitol Zoning District Commission so as to
31 establish coordinated physical development in the State Capitol area and to
32 promote the uniform and appropriate regulation and development of the State
33 Capitol area.

34
35 SECTION 6100. The introductory language of Arkansas Code § 22-2-
36 121(a), concerning the real estate compilation, is amended to read as

1 follows:

2 (a) The Building Authority Division ~~of the Department of Finance and~~
3 ~~Administration~~ shall:

4

5 SECTION 6101. Arkansas Code § 22-3-313 is amended to read as follows:

6 ~~22-3-313. Capitol Zoning District Commission Powers.~~

7 ~~(a) Effective July 1, 1997, the Director of the Department of Finance~~
8 ~~and Administration, as Chief Fiscal Officer of the State, shall transfer all~~
9 ~~authority and responsibility of the Arkansas Building Authority and the~~
10 ~~Director of the Arkansas Building Authority with respect to the Capitol~~
11 ~~Zoning District Commission to the Capitol Zoning District Commission and to~~
12 ~~the Director of the Capitol Zoning District Commission.~~

13 ~~(b) The commission and its staff shall be a separate and distinct~~
14 ~~agency of government.~~

15

16 SECTION 6102. Arkansas Code § 22-3-401(a), concerning the purpose of
17 traffic control and parking regulations on the State Capitol grounds, is
18 amended to read as follows:

19 (a) The purpose of this subchapter is to establish a system of traffic
20 control and parking regulations governing the drives and parking areas on the
21 State Capitol grounds and other drives and parking areas in the custody of or
22 leased by the Secretary of State or the Building Authority Division ~~of the~~
23 ~~Department of Finance and Administration.~~

24

25 SECTION 6103. Arkansas Code § 22-3-405(b)(2) and (3), concerning the
26 creation and members of the Capitol Parking Control Committee, are amended to
27 read as follows:

28 (2) ~~The Director of the Department of Finance and Administration~~
29 Secretary of the Department of Transformation and Shared Services or his or
30 her designee; and

31 (3) A state employee designated by the Secretary of State who is
32 employed on the State Capitol grounds in a position of administrator or
33 higher by an agency or office other than that of the Secretary of State or of
34 the Building Authority Division ~~of the Department of Finance and~~
35 ~~Administration.~~

36

1 SECTION 6104. Arkansas Code § 22-3-405(c), concerning the creation and
2 members of the Capitol Parking Control Committee, are amended to read as
3 follows:

4 (c) The Secretary of State shall be the chair of the committee, and
5 the ~~Director of the Department of Finance and Administration~~ Secretary of the
6 Department of Transformation and Shared Services or his or her designee shall
7 serve as secretary of the committee.

8
9 SECTION 6105. The introductory language of Arkansas Code § 22-3-406,
10 concerning the powers and duties of the Capitol Parking Control Committee, is
11 amended to read as follows:

12 Upon the passage of this subchapter, the Capitol Parking Control
13 Committee shall proceed to study the traffic conditions on the drives of the
14 State Capitol grounds and shall make a study of the existing and anticipated
15 needs for parking space on the State Capitol grounds and other parking lots
16 and drives leased by or in the custody of the Secretary of State or the
17 Building Authority Division ~~of the Department of Finance and Administration~~.
18 Upon completion of the study, the committee shall establish rules and
19 regulations and shall amend or change them from time to time as deemed
20 necessary in the following manner:

21
22 SECTION 6106. The introductory language of Arkansas Code § 22-3-905,
23 concerning the duties and powers of the Building Authority Division, is
24 amended to read as follows:

25 It shall be the function, power, and duty of the Building Authority
26 Division ~~of the Department of Finance and Administration~~ to:

27
28 SECTION 6107. Arkansas Code § 22-3-906 is amended to read as follows:

29 22-3-906. ~~Director of the Department of Finance and Administration~~
30 Secretary of the Department of Transformation and Shared Services.

31 (a) The ~~Director of the Department of Finance and Administration~~
32 Secretary of the Department of Transformation and Shared Services shall be
33 the custodian of all property held in the name of the Building Authority
34 Division ~~of the Department of Finance and Administration~~, shall be its
35 disbursing agent and executive officer, and shall administer the provisions
36 of this subchapter and the rules, regulations, and orders established

1 thereunder.

2 (b) The ~~director~~ Secretary of the Department of Transformation and
3 Shared Services shall employ such assistants and other personnel as are, in
4 his or her opinion, necessary to properly administer the provisions of this
5 subchapter.

6 (c)(1) The ~~director~~ Secretary of the Department of Transformation and
7 Shared Services shall furnish bond to the state, with a corporate surety
8 thereon, in the penal sum of twenty-five thousand dollars (\$25,000),
9 conditioned that he or she will faithfully perform his or her duties and
10 properly account for all funds received and disbursed by him or her.

11 (2) An additional disbursing agent's bond shall not be required
12 of the ~~director~~ Secretary of the Department of Transformation and Shared
13 Services, and the bond so furnished shall be filed in the office of the
14 Secretary of State, and an executed counterpart thereof shall be filed with
15 the Auditor of State.

16 (3) The premium on the bond shall be a proper charge against the
17 funds under the control of the ~~director~~ Secretary of the Department of
18 Transformation and Shared Services.

19

20 SECTION 6108. Arkansas Code § 22-3-907 is amended to read as follows:

21 22-3-907. Financing authority of Building Authority Division ~~of the~~
22 ~~Department of Finance and Administration~~.

23 The Building Authority Division ~~of the Department of Finance and~~
24 ~~Administration~~ is authorized and empowered to enter into the necessary
25 contracts for the borrowing of all funds that it determines will be required
26 in connection with the financing of the Arkansas Justice Building or the
27 construction of extensions, additions, or improvements thereto. The cost of
28 construction may include architectural, engineering, legal, and other similar
29 expenses.

30

31 SECTION 6109. Arkansas Code § 22-3-916 is amended to read as follows:

32 22-3-916. Audit of accounts – Reports.

33 The agency of the state authorized by law to audit the records and
34 accounts of the various state agencies is authorized and directed to audit
35 the records and accounts of the Building Authority Division ~~of the Department~~
36 ~~of Finance and Administration~~ and to furnish a copy of the report thereof to

1 the division and to the trustee for the bondholders.

2
3 SECTION 6110. Arkansas Code § 22-3-917(a)(1), concerning the
4 employment of an architect and fees, is amended to read as follows:

5 (a)(1) The Building Authority Division ~~of the Department of Finance~~
6 ~~and Administration~~ may employ an architect to prepare plans, specifications,
7 and estimates of cost for the construction of the Arkansas Justice Building
8 and to supervise and inspect the construction.

9
10 SECTION 6111. Arkansas Code § 22-3-918(a)(1), concerning the notice
11 for bids for construction and execution of contracts, is amended to read as
12 follows:

13 (a)(1) After the Building Authority Division ~~of the Department of~~
14 ~~Finance and Administration~~ has approved the plans and specifications prepared
15 by the architect, it shall proceed to advertise for bids for the construction
16 of the Arkansas Justice Building.

17
18 SECTION 6112. Arkansas Code § 22-3-918(d), concerning the notice for
19 bids for construction and execution of contracts, is amended to read as
20 follows:

21 (d) The ~~Director of the Department of Finance and Administration~~
22 Secretary of the Department of Transformation and Shared Services shall
23 execute all contracts awarded by the division.

24
25 SECTION 6113. Arkansas Code § 22-3-1101(a)(1), concerning the
26 acquisition of facilities by the state for holding the Arkansas State Fair
27 and Livestock Show, is amended to read as follows:

28 (a)(1) The Building Authority Division ~~of the Department of Finance~~
29 ~~and Administration~~ may enter into an agreement with the Arkansas Livestock
30 Show Association and make such contracts as are necessary for the purpose of
31 purchasing the permanent site of the association and for the purchase or
32 construction of buildings and facilities for the holding of the Arkansas
33 State Fair and Livestock Show.

34
35 SECTION 6114. Arkansas Code § 22-3-1102(a), concerning the power of
36 eminent domain, is amended to read as follows:

1 (a) From and after the passage and approval of this section, the
2 Building Authority Division ~~of the Department of Finance and Administration~~
3 may acquire by eminent domain any real property, including the improvements
4 and fixtures on the property that it may deem necessary to provide a
5 permanent site and show facilities for a state fair and livestock show and
6 for aid to the livestock industry.

7
8 SECTION 6115. Arkansas Code § 22-3-1206(a), concerning the filing of a
9 financial statement prior to a plan of proposed construction work and review,
10 is amended to read as follows:

11 (a) Before certificates of indebtedness as authorized by this
12 subchapter may be issued by the Building Authority Division ~~of the Department~~
13 ~~of Finance and Administration~~ and purchased by the State Board of Finance,
14 the division shall develop a plan for all proposed construction work to be
15 performed, the location at which the work is to be performed, and the
16 proposed use of the improvements to be carried out under the construction,
17 together with the estimated cost thereof, and shall file a copy thereof with
18 the Legislative Council, the Governor, and the Chief Fiscal Officer of the
19 State at least sixty (60) days prior to the issuance of the certificates of
20 indebtedness.

21
22 SECTION 6116. Arkansas Code § 22-3-1207(a)(1), concerning the issuance
23 and purchase of a certificate of indebtedness authorized, is amended to read
24 as follows:

25 (a)(1) For the purpose of providing funds for the construction of
26 buildings as authorized in this subchapter, the Director of the Building
27 Authority Division ~~of the Department of Finance and Administration~~, with the
28 approval of the Governor and the Secretary of the Department of
29 Transformation and Shared Services, is authorized and empowered to issue, and
30 the State Board of Finance is authorized and empowered to purchase, division
31 certificates of indebtedness of a total principal amount not to exceed
32 twenty-five million dollars (\$25,000,000).

33
34 SECTION 6117. Arkansas Code § 22-3-1208(a)(1), concerning the terms
35 and execution of certificates of indebtedness, is amended to read as follows:

36 (a)(1) The certificates of indebtedness shall be in such form and

1 denomination, and shall have such dates and maturities, and may be issued in
2 such series, as the Building Authority Division ~~of the Department of Finance~~
3 ~~and Administration~~ shall determine.

4
5 SECTION 6118. Arkansas Code § 22-3-1208(d), concerning the terms and
6 execution of certificates of indebtedness, is amended to read as follows:

7 (d) The certificates of indebtedness shall be executed on behalf of
8 the division by the ~~Director of the Department of Finance and Administration~~
9 Secretary of the Department of Transformation and Shared Services.

10
11 SECTION 6119. Arkansas Code § 22-3-1209(a), concerning the pledge of
12 revenues and restrictions on a certificate of indebtedness, is amended to
13 read as follows:

14 (a) The certificates shall be the obligations of the Building
15 Authority Division ~~of the Department of Finance and Administration~~, and the
16 nontax revenues available to the division under the provisions of § 22-3-
17 1210, as distinguished from any tax moneys which may be made available for
18 the operation of the division, are pledged to secure the payment of the
19 certificates.

20
21 SECTION 6120. Arkansas Code § 22-3-1210(c)(1)(B), concerning the
22 Public Facilities Debt Service Fund and certificates of indebtedness, is
23 amended to read as follows:

24 (B) Commencing on the first day of the month next
25 succeeding the issuance of certificates of indebtedness under this
26 subchapter, but not before July 1, 1983, and so long as any certificates are
27 outstanding under this subchapter, the pledged revenues, except as provided
28 herein, shall be deposited into the State Treasury as and when received by
29 the Department of Correction, by the Building Authority Division ~~of the~~
30 ~~Department of Finance and Administration~~, by state-supported institutions of
31 higher education, or by any other state agency, as the case may be, to the
32 credit of a fund to be designated the "Public Facilities Debt Service Fund".

33
34 SECTION 6121. Arkansas Code § 22-3-1212(c), concerning retirement and
35 funds used for the purchase of certificates of indebtedness, is amended to
36 read as follows:

1 (c) The certificates of indebtedness which have been paid and
2 cancelled by the Treasurer of State shall be delivered to the Building
3 Authority Division ~~of the Department of Finance and Administration.~~
4

5 SECTION 6122. Arkansas Code § 22-3-1213(a), concerning the alternative
6 method of payment for a certificate of indebtedness, is amended to read as
7 follows:

8 (a) In the event it shall be determined that the procedure set forth
9 in § 22-3-1212 for the retirement of the certificates is unconstitutional or
10 invalid for any reason, the Building Authority Division ~~of the Department of~~
11 ~~Finance and Administration~~ is authorized and directed to establish an account
12 in its name in a bank to be approved by the State Board of Finance and to
13 deposit therein so much of the first moneys received by it each year under
14 the provisions of § 22-3-1210 as shall be required to meet the next ensuing
15 principal and interest maturities of its outstanding certificates, together
16 with such additional amounts as may be necessary to pay any certificates
17 which it shall determine to retire in advance of maturity.
18

19 SECTION 6123. The introductory language of Arkansas Code § 22-3-1216,
20 concerning covenants and authorizing resolutions as an enforceable contracts,
21 is amended to read as follows:

22 Any authorizing resolution shall, together with this subchapter,
23 constitute a contract between the Building Authority Division ~~of the~~
24 ~~Department of Finance and Administration~~, and the State Board of Finance, and
25 the Treasurer of State, which contract and all covenants, agreements, and
26 obligations therein shall be promptly performed in strict compliance with its
27 terms and provisions, and the covenants, agreements, and obligations of the
28 division may be enforced by mandamus or other appropriate proceeding at law
29 or in equity. In this regard, the division is expressly authorized to include
30 in any authorizing resolution all or part of the following covenants:
31

32 SECTION 6124. Arkansas Code § 22-3-1217 is amended to read as follows:

33 22-3-1217. Disposition of revenues from agricultural and livestock
34 activities of correctional facility.

35 (a)(1) Prior to the issuance of certificates of indebtedness as
36 authorized by this subchapter, all moneys collected by the ~~Department~~

1 Division of Correction from the sale or disposition of farm products,
2 livestock, or other products produced in connection with agricultural and
3 livestock activities at institutions under the control of the Board of
4 Corrections, from the rental of farm properties under the control of the
5 board, and from payments from agencies of the state or federal government in
6 connection with the farm operations of the ~~department~~ Division of Correction
7 shall be deposited into the State Treasury as special revenues for credit to
8 the ~~Department~~ Division of Correction Farm Fund, as authorized by law, to be
9 used for the maintenance, operation, and improvement of the agriculture and
10 farm programs of the ~~department~~ Division of Correction.

11 (2) Moneys which the ~~department~~ Division of Correction shall
12 determine not to be necessary in defraying expenses of operating the
13 agriculture programs of the ~~department~~ Division of Correction and which are
14 profit or surplus from the operation of the agriculture programs shall, upon
15 certification by the board to the Chief Fiscal Officer of the State, be
16 transferred by the Chief Fiscal Officer of the State from the ~~Department~~
17 Division of Correction Farm Fund to the ~~Department~~ Division of Correction
18 Inmate Care and Custody Fund Account within the State General Government
19 Fund, to be used to supplement general revenues provided for the maintenance,
20 operation, and improvement of the ~~department~~ Division of Correction, as
21 provided by law.

22 (b)(1) Commencing the first day of the month next succeeding the
23 issuance of any certificates of indebtedness as authorized by this
24 subchapter, the moneys described in this section shall be pledged revenues,
25 as stated in § 22-3-1210, and shall be deposited into the Public Facilities
26 Debt Service Fund as established in § 22-3-1210.

27 (2) Any surplus prison farm moneys in the Public Facilities Debt
28 Service Fund, as defined in the authorizing resolution, shall be transferred
29 to the ~~Department~~ Division of Correction Farm Fund, upon certification by the
30 Building Authority Division ~~of the Department of Finance and Administration~~
31 to the Chief Fiscal Officer of the State, to the Treasurer of State, and to
32 the Auditor of State, to be used for the maintenance, operation, and
33 improvement of the agriculture and farm programs of the ~~Department~~ Division
34 of Correction, as provided by law.

35 (3) Such moneys deposited into the ~~Department~~ Division of
36 Correction Farm Fund which the ~~department~~ Division of Correction shall

1 determine not to be necessary in defraying expenses of operating the
2 agriculture and farm programs of the ~~department~~ Division of Correction shall
3 be, upon certification thereof by the board to the Chief Fiscal Officer of
4 the State, transferred by the Chief Fiscal Officer of the State from the
5 ~~Department~~ Division of Correction Farm Fund to the ~~Department~~ Division of
6 Correction Inmate Care and Custody Fund Account within the State General
7 Government Fund to be used to supplement general revenues provided for the
8 maintenance, operation, and improvement of the ~~department~~ Division of
9 Correction, as provided by law.

10
11 SECTION 6125. Arkansas Code § 22-3-1219(a), concerning the notice for
12 bids for construction and the employment of architects and other
13 professionals, is amended to read as follows:

14 (a) The Building Authority Division ~~of the Department of Finance and~~
15 ~~Administration~~ is authorized to employ architects to prepare plans,
16 specifications, and estimates of costs for the construction of any and all
17 facilities authorized by the provisions of this subchapter and to supervise
18 and inspect the construction.

19
20 SECTION 6126. Arkansas Code § 22-3-1311 is amended to read as follows:

21 22-3-1311. Termination of contracts with sighted vendors.

22 On state property where vending facilities are being operated by those
23 other than the blind, when the present contract or agreement expires or is
24 terminated for any reason or when a change in the present vending facility is
25 imminent, the future planned vending facility for such state property shall
26 be covered by this subchapter, and state agency administrators shall contact
27 the licensing agency to assure preference for the blind. Provided, however,
28 leases executed under § 22-2-114 prior to June 1, 1999, shall not be
29 considered a contract or agreement within this subchapter if the property is
30 owned by the Building Authority Division ~~of the Department of Finance and~~
31 ~~Administration~~.

32
33 SECTION 6127. Arkansas Code § 22-3-1403(4), concerning the definition
34 of "construct" under the State Agencies Facilities Acquisition Act of 1991 ,
35 is amended to read as follows:

36 (4) "Construct" means to acquire, construct, reconstruct,

1 remodel, install, and equip any lands, buildings, structures, improvements,
2 or other property, real, personal, or mixed, useful in connection therewith
3 and to make other necessary expenditures in connection therewith by such
4 methods and in such manner as the Building Authority Division ~~of the~~
5 ~~Department of Finance and Administration~~ shall determine to be necessary or
6 desirable to accomplish the powers, purposes, and authority set forth in this
7 subchapter.

8
9 SECTION 6128. The introductory language of Arkansas Code § 22-3-1404,
10 concerning the powers of the Building Authority Division under the State
11 Agencies Facilities Acquisition Act of 1991, is amended to read as follows:

12 In addition to the purposes, powers, and authority set forth elsewhere
13 in this subchapter or in other laws, the Building Authority Division ~~of the~~
14 ~~Department of Finance and Administration~~ may:

15
16 SECTION 6129. Arkansas Code § 22-3-1404(8), concerning the powers of
17 the Building Authority Division under the State Agencies Facilities
18 Acquisition Act of 1991, is amended to read as follows:

19 (8) Take such other actions not inconsistent with law as may be
20 necessary or desirable to carry out the powers, purposes, and authority as
21 set forth in this section in accordance with the policies promulgated by the
22 ~~Director of the Department of Finance and Administration~~ Secretary of the
23 Department of Transformation and Shared Services.

24
25 SECTION 6130. The introductory language of Arkansas Code § 22-3-1405,
26 concerning the duties of the Building Authority Division under the State
27 Agencies Facilities Acquisition Act of 1991, is amended to read as follows:

28 In addition to the purposes, powers, and authority set forth elsewhere
29 in this subchapter or in other laws, in connection with the construction and
30 equipping of buildings and facilities in Little Rock, Arkansas, to house
31 state agencies, the Building Authority Division ~~of the Department of Finance~~
32 ~~and Administration~~ may:

33
34 SECTION 6131. Arkansas Code § 22-3-1405(4), concerning the duties of
35 the Building Authority Division under the State Agencies Facilities
36 Acquisition Act of 1991, is amended to read as follows:

1 (4) Take such other actions not inconsistent with law as may be
2 necessary or desirable to carry out the powers, purposes, and authority set
3 forth herein, in accordance with the policies promulgated by the ~~Director of~~
4 ~~the Department of Finance and Administration~~ Secretary of the Department of
5 Transformation and Shared Services as authorized by law.

6
7 SECTION 6132. Arkansas Code § 22-3-1407(a) and (b), concerning revenue
8 bonds, are amended to read as follows:

9 (a) Pursuant to the intention of the General Assembly expressed in §
10 15-5-303, the Arkansas Development Finance Authority, in cooperation with the
11 Building Authority Division ~~of the Department of Finance and Administration~~,
12 is hereby authorized and empowered to issue revenue bonds at one (1) time or
13 from time to time, and to use the proceeds thereof for defraying the costs of
14 accomplishing all or part of the powers, purposes, and authorities set forth
15 in this subchapter and all expenses incidental thereto, including, without
16 limitation, expenses for the operation and maintenance of such facilities
17 pending completion of the construction, repair, remodeling, or renovation,
18 paying the expenses of authorizing and issuing the bonds, establishing a debt
19 service reserve to secure the payment of the bonds, if the Arkansas
20 Development Finance Authority deems such desirable, and making provision for
21 the payment of debt service on the bonds, including fees of trustees and
22 paying agents, until revenues for the payment thereof are available.

23 (b) The bonds outstanding under this subchapter may be in such
24 principal amount as the Arkansas Development Finance Authority and the
25 Building Authority Division ~~of the Department of Finance and Administration~~
26 shall determine to be necessary for the accomplishment of the purposes of
27 this subchapter.

28
29 SECTION 6133. Arkansas Code § 22-3-1410 is amended to read as follows:
30 22-3-1410. Contract between Arkansas Development Finance Authority and
31 holders and owners of bonds.

32 (a) Any authorizing resolution and trust indenture shall, together
33 with this subchapter, constitute a contract between the Arkansas Development
34 Finance Authority and the holders and registered owners of the bonds, which
35 contract, and all covenants, agreements, and obligations therein, shall be
36 promptly performed in strict compliance with the terms and provisions of such

1 contract, and the covenants, agreements, and obligations of the Building
2 Authority Division ~~of the Department of Finance and Administration~~ may be
3 enforced by mandamus or other appropriate proceedings at law or in equity.

4 (b) In this regard, in addition to other provisions referred to in
5 this subchapter, the Building Authority Division ~~of the Department of Finance
6 and Administration~~ is hereby expressly authorized to include in any
7 authorizing resolution or trust indenture assurance that, to the fullest
8 extent possible, it will always charge, impose, and collect sufficient
9 rentals and other revenue to meet, as due, all debt service requirements,
10 maintain reserves at proper levels, and otherwise comply with any provisions
11 of authorizing resolutions or trust indentures concerning revenues and bonds.
12

13 SECTION 6134. The introductory language of Arkansas Code § 22-3-
14 1415(a), concerning the supervision and management of buildings and
15 facilities, is amended to read as follows:

16 (a) The Building Authority Division ~~of the Department of Finance and
17 Administration~~ may supervise and manage buildings and other facilities
18 constructed pursuant to the authority granted in this subchapter and to
19 manage, maintain, and repair those buildings and facilities to provide rental
20 space to be made available for the housing of state agencies, departments,
21 boards, commissions, and institutions, or other tenants at such rental rates
22 as deemed necessary:
23

24 SECTION 6135. Arkansas Code § 22-3-1501 is amended to read as follows:
25 22-3-1501. Intent.

26 The Building Authority Division ~~of the Department of Finance and
27 Administration~~ shall provide adequate facilities for those agencies located
28 in the Capitol Mall area. The services provided by these agencies are varied.
29 Parking spaces for these tenants have not kept up with current growth,
30 thereby diminishing effective services provided by these agencies. The public
31 access to the Capitol Mall area has been diminished by the lack of adequate
32 parking. The construction of a parking deck facility, surface parking, and
33 street improvements will help to alleviate such diminished services and lack
34 of access.
35

36 SECTION 6136. Arkansas Code § 22-3-1502(a)(1), concerning the Building

1 Authority Division's authority to build and maintain parking facilities, is
2 amended to read as follows:

3 (a)(1) Any other provision of law to the contrary notwithstanding, the
4 Building Authority Division ~~of the Department of Finance and Administration~~
5 is hereby authorized to construct, manage, and maintain parking deck
6 facilities, surface parking, and street improvements, called in this
7 subchapter the "parking facilities", in the area described in § 22-3-302(a).

8

9 SECTION 6137. Arkansas Code § 22-3-1503 is amended to read as follows:
10 22-3-1503. Parking regulation.

11 The Building Authority Division ~~of the Department of Finance and~~
12 ~~Administration~~ shall develop parking regulations which will maintain
13 equitable parking among the state agency tenants in the area described in §
14 22-3-1501 and for the public and may establish reasonable rental or other
15 charges for parking therein. The State Capitol Police shall provide the
16 necessary traffic patrols and policing of the parking facility.

17

18 SECTION 6138. Arkansas Code § 22-3-1504 is amended to read as follows:
19 22-3-1504. Utility easement.

20 The Building Authority Division ~~of the Department of Finance and~~
21 ~~Administration~~, on behalf of the State of Arkansas, is hereby granted an
22 easement or license over the State Capitol Building, the various buildings on
23 the State Capitol grounds, and the State Capitol grounds for the purpose of
24 installing or relocating utilities, connecting the facility to an existing
25 structure, and such other purposes as are necessary and consistent with this
26 project as authorized by this subchapter.

27

28 SECTION 6139. Arkansas Code § 22-3-1505(a)(1), concerning funding for
29 the Building Authority Division, is amended to read as follows:

30 (a)(1) The Building Authority Division ~~of the Department of Finance~~
31 ~~and Administration~~ is authorized and empowered to obtain the necessary funds
32 for accomplishing its powers, purposes, and authority from any source or
33 sources necessary and consistent with this subchapter, including without
34 limitation contracting with the Arkansas Development Finance Authority to
35 provide for the issuance of bonds by the Arkansas Development Finance
36 Authority in accordance with the State Agencies Facilities Acquisition Act of

1 1991, § 22-3-1401 et seq.

2

3 SECTION 6140. Arkansas Code § 22-3-1506 is amended to read as follows:
4 22-3-1506. Exceptions.

5 The provisions of § 22-3-301 et seq., pertaining to the Capitol Zoning
6 District Commission, § 22-3-401 et seq., pertaining to the Capitol Parking
7 Control Committee, § 22-3-501 et seq., pertaining to the Capitol Arts and
8 Grounds Commission, and § 22-3-202, pertaining to the Secretary of State, or
9 any other provision of law inconsistent with the intent of this subchapter
10 shall not be applicable to the Building Authority Division ~~of the Department~~
11 ~~of Finance and Administration~~ in connection with the parking facilities
12 contemplated by this subchapter, and no filings, consents, or approvals shall
13 be required from any agency of the state prior to the construction,
14 renovation, or repair of parking facilities or concerning the operations
15 thereof.

16

17 SECTION 6141. Arkansas Code § 22-3-1901 is amended to read as follows:
18 22-3-1901. Sustainable Building Design Program for State Agencies.

19 There is created the Sustainable Building Design Program for State
20 Agencies to be administered by the Building Authority Division ~~of the~~
21 ~~Department of Finance and Administration~~.

22

23 SECTION 6142. Arkansas Code § 22-3-1903(a), concerning loans under the
24 Sustainable Building Design Program for State Agencies, is amended to read as
25 follows:

26 (a) Under the Sustainable Building Design Program for State Agencies,
27 the Building Authority Division ~~of the Department of Finance and~~
28 ~~Administration~~ may authorize money to be loaned from the Sustainable Building
29 Design Revolving Loan Fund to a state agency, board, or commission.

30

31 SECTION 6143. Arkansas Code § 22-3-1904(a)(1), concerning the loan
32 approval process, is amended to read as follows:

33 (1) Apply on a form approved by the Building Authority Division
34 ~~of the Department of Finance and Administration~~; and

35

36 SECTION 6144. Arkansas Code § 22-6-601(a)(1)(A), concerning the sale

1 procedure for lands of state institutions, is amended to read as follows:

2 (a)(1)(A) The several state boards or commissions having supervision
3 of the affairs of the charitable, penal, correctional, educational, and other
4 institutions of the State of Arkansas and all other state boards and
5 commissions, except the State Highway Commission, the Arkansas State Game and
6 Fish Commission, the Arkansas Natural Heritage Commission, the State Parks,
7 Recreation, and Travel Commission, the ~~Department~~ Division of Higher
8 Education, and institutions of higher education, and the executive heads of
9 all state offices, departments, divisions, and agencies, all referred to
10 separately as "state agency", may sell or purchase, for cash in hand and upon
11 compliance with the provisions of this section, the lands, in whole or in
12 part, belonging to or under the supervision or control of the respective
13 state agency or belonging to the state and held for the use or benefit of the
14 state agency.

15
16 SECTION 6145. Arkansas Code § 22-6-601(a)(2)(D), concerning the sale
17 procedure for lands of state institutions, is amended to read as follows:

18 (D) The exchange of state lands for other lands which are
19 suitable for state purposes if the ~~Director~~ Secretary of the Department of
20 Finance and Administration has made a recommendation to the Governor that the
21 exchange be made and if the Governor has approved the exchange.

22
23 SECTION 6146. Arkansas Code § 22-6-601(b), concerning the procedure
24 for the sale of state lands, is amended to read as follows:

25 (b)(1) State agencies may transfer lands in whole or in part to the
26 Building Authority Division ~~of the Department of Finance and Administration~~
27 for the use of that agency or other state agencies.

28 (2) In the event that the ~~division~~ Building Authority Division
29 shall sell the lands at a later date, the provisions of this section shall
30 apply, and the proceeds of the sale, less any expenses and liquidated
31 damages, shall be deposited into the State Treasury as a nonrevenue receipt
32 to the credit of the fund from which the agency that transferred the land to
33 the ~~division~~ Building Authority Division is operated.

34
35 SECTION 6147. Arkansas Code § 22-6-601(c)(1), concerning the procedure
36 for the sale of state lands, is amended to read as follows:

1 (c)(1) In the event that a state agency elects to sell certain of its
2 lands or to purchase lands, the agency shall certify to the ~~division~~ Building
3 Authority Division its proposal for any sale or purchase.

4
5 SECTION 6148. Arkansas Code § 22-6-601(c)(2)(A), concerning the sale
6 procedure of state lands, is amended to read as follows:

7 (2)(A) The state agency proposing the sale or purchase of land
8 shall obtain the services of a qualified appraiser to appraise the lands so
9 proposed to be sold or purchased, with notice to the ~~Director of the~~
10 ~~Department of Finance and Administration~~ Secretary of the Department of
11 Transformation and Shared Services.

12
13 SECTION 6149. Arkansas Code § 22-6-601(d), concerning the procedure
14 for the sale of state lands, is amended to read as follows:

15 (d)(1) The ~~Director of the Department of Finance and Administration~~
16 Secretary of the Department of Transformation and Shared Services shall
17 furnish to the Governor:

18 (A) The appraisal;
19 (B) The agency proposal to sell or purchase; and
20 (C) The ~~division's~~ Building Authority Division's
21 recommendations.

22 (2) The Governor, if he or she approves the proposed sale or
23 purchase, shall endorse his or her approval of the proposal and transmit a
24 copy of the proposal to the ~~Director~~ Secretary of the Department of Finance
25 and Administration and the Secretary of the Department of Transformation and
26 Shared Services.

27
28 SECTION 6150. Arkansas Code § 22-6-601(e)(1), concerning the procedure
29 for the sale of state lands, is amended to read as follows:

30 (e)(1) The ~~division~~ Building Authority Division shall give notice of
31 the terms of the sale by publication in one (1) newspaper regularly published
32 in Little Rock, Arkansas, and having a general circulation in the State of
33 Arkansas, by four (4) weekly insertions therein.

34
35 SECTION 6151. Arkansas Code § 22-6-601(f), concerning the procedure
36 for the sale of state lands, is amended to read as follows:

1 (f) The notice shall specify a time and place, which time shall be not
2 less than thirty (30) days from and after the date of the first insertion of
3 the notice, for the receipt by the ~~division~~ Building Authority Division of
4 sealed bids for the purchase of the lands.

5
6 SECTION 6152. Arkansas Code § 22-6-601(g)(4), concerning the procedure
7 for the sale of state lands, is amended to read as follows:

8 (4) The ~~division~~ Building Authority Division, at the time and
9 place specified in the notice, or by announcement then and there, or at some
10 other time or place, shall open the bids which have been received and proceed
11 to accept the highest bid properly accompanied by a cashier's check for the
12 lands in whole or in part as offered for such sale.

13
14 SECTION 6153. Arkansas Code § 22-9-101(c)(2)(B), concerning the
15 requirement of observation by registered professionals, is amended to read as
16 follows:

17 (B) The State Parks, Recreation, and Travel Commission
18 shall ensure that an unpaved trail project created under this subdivision
19 (c)(2) meets the standards for observation by registered professionals as
20 established by the Building Authority Division ~~of the Department of Finance~~
21 ~~and Administration~~.

22
23 SECTION 6154. Arkansas Code § 22-9-201(c)(3), concerning the
24 applicability of §§ 22-9-202 – 22-9-204, is amended to read as follows:

25 (3) "Emergency contracting procedures" means the acquisition of
26 services and materials for capital improvements, including without limitation
27 acquisitions funded in whole or in part with insurance proceeds, that are in
28 accordance with the minimum standards and criteria of the Building Authority
29 Division ~~of the Department of Finance and Administration~~.

30
31 SECTION 6155. Arkansas Code § 22-9-201(c)(5), concerning the
32 applicability of §§ 22-9-202 – 22-9-204, is amended to read as follows:

33 (5) The ~~Director of the Department of Finance and Administration~~
34 Secretary of the Department of Transformation and Shared Services or a
35 designee may make or authorize others to make emergency contracting
36 procedures as defined in subdivision (c)(3) of this section and in accordance

1 with the minimum standards and criteria of the division.

2
3 SECTION 6156. Arkansas Code § 22-9-203(a)(1), concerning the award
4 procedure for public improvements, is amended to read as follows:

5 (1) The state or any agency of the state shall have first
6 published notice of its intention to receive bids one (1) time each week for
7 not less than two (2) consecutive weeks for projects more than the amount of
8 fifty thousand dollars (\$50,000) and published notice of its intention to
9 receive bids one (1) time each week for not less than one (1) week for
10 projects more than the quote bid limit, as provided under the minimum
11 standards and criteria of the Building Authority Division ~~of the Department~~
12 ~~of Finance and Administration~~, but less than or equal to fifty thousand
13 dollars (\$50,000) in a newspaper of general circulation published in the
14 county in which the proposed improvements are to be made or in a trade
15 journal reaching the construction industry; and

16
17 SECTION 6157. Arkansas Code § 22-9-204(c)(2), concerning the penalty
18 for subcontracts exceeding fifty thousand dollars (\$50,000), is amended to
19 read as follows:

20 (2) In the event that one (1) or more of the subcontractors
21 named by the prime contractor in his or her successful bid thereafter refuses
22 to perform his or her contract or offered contract, the prime contractor may
23 substitute another subcontractor licensed by the board after having obtained
24 prior approval from the architect or engineer and the owner. Additional
25 approval must be obtained from the Building Authority Division ~~of the~~
26 ~~Department of Finance and Administration~~ for capital improvement projects
27 under its jurisdiction.

28
29 SECTION 6158. Arkansas Code § 22-9-208(a)(3), concerning renovation of
30 historic sites, is amended to read as follows:

31 (3) The procedures provided in subdivision (a)(2) of this
32 section should be applicable for specific projects only after review and
33 approval by the Chief Fiscal Officer of the State, the Building Authority
34 Division ~~of the Department of Finance and Administration~~, the Secretary of
35 the Department of Transformation and Shared Services, and the Legislative
36 Council. Provided, however, projects undertaken by public institutions of

1 higher education exempt from review and approval of the division shall not
2 require review and approval by the ~~Director of the Department of Finance and~~
3 ~~Administration~~ secretary.

4
5 SECTION 6159. Arkansas Code § 22-9-209(d)(2), concerning the
6 advertising of contracts, renovation of historic sites is amended to read as
7 follows:

8 (2) Provided further, nothing in this section shall prevent an
9 institution of higher education exempt from review and approval of the
10 Building Authority Division ~~of the Department of Finance and Administration~~
11 from entering into an agreement with the division to provide such advice.

12
13 SECTION 6160. Arkansas Code § 22-9-213 is amended to read as follows:
14 22-9-213. Exemption of state projects from local regulation.

15 Public works construction projects conducted by the Building Authority
16 Division ~~of the Department of Finance and Administration~~ or other state
17 agencies are exempt from permit fees or inspection requirements of county or
18 municipal ordinances.

19
20 SECTION 6161. Arkansas Code § 22-9-403(b)(2), concerning the
21 limitation of an action and the statutory liability as an integral part of a
22 bond, is amended to read as follows:

23 (2) However, with respect to public works contracts where final
24 approval for payment is given by the Building Authority Division ~~of the~~
25 ~~Department of Finance and Administration~~ or by an institution of higher
26 education exempt from construction review and approval by the division, all
27 persons, firms, associations, and corporations having valid claims against
28 the bond may bring an action on the bond against the corporate surety,
29 provided that no action shall be brought on the bond after twelve (12) months
30 from the date on which the division or the public institution of higher
31 education approves final payment on the state contract, nor shall any action
32 be brought outside the State of Arkansas in accordance with § 18-44-503.

33
34 SECTION 6162. Arkansas Code § 22-10-201(a)(1), concerning the
35 designation and duties of a responsible public entity, is amended to read as
36 follows:

1 (1) Seek the advice and consent of the ~~Arkansas Economic~~
2 ~~Development Commission~~ Building Authority Division and the Arkansas
3 Development Finance Authority; and
4

5 SECTION 6163. The introductory language of Arkansas Code § 22-10-
6 501(a), concerning review and approval of a proposed qualifying project, is
7 amended to read as follows:

8 (a) The ~~Arkansas Economic Development Commission~~ Building Authority
9 Division shall:
10

11 SECTION 6164. Arkansas Code § 22-10-501(b)(1)(B)(i), concerning review
12 and approval of a proposed qualifying project, is amended to read as follows:

13 (B)(i) Submit the proposed interim agreement or
14 comprehensive agreement to the ~~Chief Fiscal Officer of the State~~ Secretary of
15 the Department of Transformation and Shared Services for approval.
16

17 SECTION 6165. Arkansas Code § 22-10-502(a), concerning the duties of
18 the Arkansas Economic Development Commission, is amended to read as follows:

19 (a) The Arkansas Economic Development Commission or the Building
20 Authority Division shall promulgate certain rules regarding the definitions
21 and guidelines related to the development of qualifying projects under this
22 chapter within ninety (90) days of August 1, 2017.
23

24 SECTION 6166. The introductory language of Arkansas Code § 22-10-
25 503(a), concerning the rules of the Arkansas Economic Development Commission,
26 is amended to read as follows:

27 (a) The Arkansas Economic Development Commission or the Building
28 Authority Division and the Arkansas Development Finance Authority shall
29 jointly promulgate rules to administer this chapter, including without
30 limitation rules regarding:
31

32 SECTION 6167. Arkansas Code § 22-10-503(b), concerning the rules of
33 the Arkansas Economic Development Commission, is amended to read as follows:

34 (b) The commission or division and the authority may jointly
35 promulgate rules that establish procurement guidelines and requirements that
36 vary depending on the type of qualifying project.

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SECTION 6168. Arkansas Code § 22-10-505(a), concerning monitoring and reporting audits, is amended to read as follows:

(a) An account related to the construction, operation, or maintenance of a qualifying project authorized under this chapter shall be audited by the ~~Arkansas Economic Development Commission~~ Building Authority Division, the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State.

SECTION 6169. The introductory language of Arkansas Code § 22-10-505(b), concerning monitoring and reporting audits, is amended to read as follows:

(b) The ~~Arkansas Economic Development Commission~~ Building Authority Division shall:

SECTION 6170. Arkansas Code § 23-17-409(b)(4), concerning the authorization of competing local exchange carriers, is amended to read as follows:

(4) This section does not prohibit a governmental entity from purchasing voice, data, broadband, video, or wireless telecommunications services, directly or indirectly, from a private provider through a contract administered and services managed by the ~~Department~~ Division of Information Systems under the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

SECTION 6171. Arkansas Code § 23-46-202(b), concerning offices for the State Bank Department, is amended to read as follows:

(b) The State Bank Department is authorized and empowered to obtain the necessary funds to accomplish the purposes stated in subsection (a) of this section from any source or sources necessary, including without limitation contracting with the Building Authority Division ~~of the Department of Finance and Administration~~ or the Arkansas Development Finance Authority to provide for the issuance of bonds under the State Agencies Facilities Acquisition Act of 1991, § 22-3-1401 et seq., or the Arkansas Development Finance Authority Act, § 15-5-101 et seq., § 15-5-201 et seq., and § 15-5-301 et seq.

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SECTION 6172. Arkansas Code § 25-1-203(b)(2), concerning the distribution of other publications, is amended to read as follows:

(2) The ~~Department~~ Division of Information Systems shall assist those state agencies requesting assistance in placing publications on the state agency's website.

SECTION 6173. Arkansas Code § 25-4-102(a)(2), concerning legislative findings and a declaration of intent in regard to the Department of Information Systems, is amended to read as follows:

(2) ~~Departmental resources~~ Resources of the Division of Information Systems are used unless an exception is authorized;

SECTION 6174. Arkansas Code § 25-4-102(a)(6), concerning legislative findings and a declaration of intent in regard to the Department of Information Systems, is amended to read as follows:

(6) The ~~Department~~ Division of Information Systems complies with applicable state and federal statutory and regulatory provisions.

SECTION 6175. The introductory language of Arkansas Code § 25-4-102(b), concerning legislative findings and a declaration of intent in regard to the Department of Information Systems, is amended to read as follows:

(b) The General Assembly further declares its intent to create a state agency division to:

SECTION 6176. The introductory language of Arkansas Code § 25-4-102(c), concerning legislative findings and a declaration of intent in regard to the Department of Information Systems, is amended to read as follows:

(c) It is also the intent of the General Assembly that the ~~department~~ division achieve certain objectives that will better support information technology utilization by other state agencies. These objectives are to:

SECTION 6177. Arkansas Code § 25-4-102(d)(2), concerning legislative findings and a declaration of intent in regard to the Department of Information Systems, is amended to read as follows:

(2) The ~~department~~ division shall consider in the development of

1 the ~~department~~ division plan and the Joint Committee on Advanced
2 Communications and Information Technology shall emphasize in its
3 recommendations and policies the availability in the private sector of
4 information technology resources upon a competitive bid basis with a view to
5 assuring the state of the highest reasonable quality of resources at the
6 lowest reasonable cost.

7
8 SECTION 6178. Arkansas Code § 25-4-102(e), concerning legislative
9 findings and a declaration of intent in regards to the Department of
10 Information Systems, is amended to read as follows:

11 (e)(1) In exercising its authority under § 25-4-105, the ~~department~~
12 division shall competitively procure information technology except as
13 provided in this subsection.

14 (2) The ~~department~~ division is not authorized by § 25-4-105 to
15 provide information technology services, including telecommunications and
16 broadband services, to the general public, other than nongovernmental first
17 responder entities, in competition with private sector telecommunications and
18 cable communications providers.

19 (3) Customers of the ~~department~~ division are not authorized to
20 use information technology facilities and services provided by the ~~department~~
21 division to provide telecommunications and broadband services to the general
22 public in competition with private sector telecommunications and cable
23 communications providers.

24
25 SECTION 6179. Arkansas Code § 25-4-103(2), concerning the definition
26 of "Chief Technology Officer" under the Arkansas Information Systems Act of
27 1997, is amended to read as follows:

28 (2) "Chief Technology Officer" means the Director of the
29 ~~Department~~ Division of Information Systems;

30
31 SECTION 6180. Arkansas Code § 25-4-104 is amended to read as follows:
32 25-4-104. ~~Department~~ Division of Information Systems.

33 (a) There is established within the ~~executive department of government~~
34 Department of Transformation and Shared Services a ~~Department~~ the Division of
35 Information Systems.

36 (b)(1) The ~~department~~ division shall be headed by a director to be

1 appointed by the Governor, subject to confirmation by the Senate in the
2 manner provided by law, and shall serve at the pleasure of the Governor.

3 (2) The ~~director~~ Director of the Division of Information Systems
4 shall be a person who, by education and training, has technical knowledge and
5 management experience in information technology-related equipment, systems,
6 and services.

7 (3) The director shall qualify by filing the oath of office
8 required in the Arkansas Constitution with the Secretary of State.

9 (c) The director, in consultation with the Secretary of the Department
10 of Transformation and Shared Services, may establish divisions and the
11 organizational structure deemed necessary and appropriate for the efficient
12 performance of the duties imposed under the provisions of this chapter,
13 provided the organizational structure of the ~~department~~ division shall
14 conform to the positions authorized and limitations provided therefor in the
15 biennial appropriation of the ~~department~~ division.

16 (d) The director, in consultation with the secretary, shall appoint
17 the deputy and division directors and the professional, technical, and
18 clerical assistants and employees as necessary to perform the duties imposed
19 by this chapter. All employees of the ~~department~~ division shall be employed
20 by the department and serve at the pleasure of the ~~director~~ secretary.

21 (e) The director shall report to the ~~Governor~~ secretary any matters
22 relating to abuses of this chapter.

23 (f) The director shall recommend statutory changes to the ~~Governor~~
24 secretary.

25
26 SECTION 6181. Arkansas Code § 25-4-105(a)(1), concerning the powers
27 and duties of the Department of Information Systems, is amended to read as
28 follows:

29 (a)(1) The ~~Department~~ Division of Information Systems shall be vested
30 with all the powers and duties necessary to administer the ~~department~~
31 division and to enable it to carry out fully and effectively the regulations
32 and laws relating to the ~~department~~ division.

33
34 SECTION 6182. The introductory language of Arkansas Code § 25-4-
35 105(a)(2), concerning the powers and duties of the Department of Information
36 Systems, is amended to read as follows:

1 (2) The ~~department's~~ division's powers and duties relate to
2 information technology and include without limitation:

3
4 SECTION 6183. Arkansas Code § 25-4-105(a)(2)(E)(ii), concerning the
5 powers and duties of the Department of Information Systems, is amended to
6 read as follows:

7 (ii) The ~~department~~ division shall have the
8 authority to adjust billing as necessary to effect compliance with applicable
9 state and federal statutory and regulatory provisions.

10
11 SECTION 6184. Arkansas Code § 25-4-105(a)(2)(G) and (H), concerning
12 the powers and duties of the Department of Information Systems, are amended
13 to read as follows:

14 (G) Promulgating rules that are necessary for efficient
15 administration and enforcement of the powers, functions, and duties of the
16 ~~department~~ division as provided in this chapter;

17 (H) Developing a ~~departmental~~ division plan to support the
18 goals and objectives set forth for it in the state information technology
19 plans and strategies;

20
21 SECTION 6185. Arkansas Code § 25-4-105(a)(2)(Q), concerning the powers
22 and duties of the Department of Information Systems, is amended to read as
23 follows:

24 (Q) With respect to their technology functions and
25 applications, all state departments, boards, commissions, and public
26 institutions of higher education, consulting and cooperating with the
27 ~~Department~~ Division of Information Systems in the formation and
28 implementation of security policies for the state core information technology
29 infrastructure;

30
31 SECTION 6186. Arkansas Code § 25-4-106(a)(1), concerning the reporting
32 requirements of the Director of the Department of Information Systems, is
33 amended to read as follows:

34 (a)(1) The Director of the ~~Department~~ Division of Information Systems
35 will report periodically to the Joint Committee on Advanced Communications
36 and Information Technology regarding the status of the ~~Department~~ Division of

1 Information Systems' information technology responsibilities in state
2 government.

3 (2) The director may report any factors that are outside the
4 scope of the ~~department~~ division but are deemed to inhibit or to promote the
5 ~~department's~~ division's responsibilities.

6
7 SECTION 6187. Arkansas Code § 25-4-106(b)(2)(B), concerning the
8 reporting requirements of the Director of the Department of Information
9 Systems, is amended to read as follows:

10 (B) Provide a full report of all corresponding
11 recommendations made by the ~~department~~ division to the requesting state
12 agencies, boards, and commissions.

13
14 SECTION 6188. Arkansas Code § 25-4-108(a), concerning working groups
15 of the Department of Information Systems, is amended to read as follows:

16 (a) The Director of the ~~Department~~ Division of Information Systems may
17 appoint working groups as necessary for specific purposes related to
18 information technology coordination.

19
20 SECTION 6189. Arkansas Code § 25-4-109(a) and (b), concerning the
21 authorization of the Department of Informations Systems to establish,
22 maintain, and operator information technology centers, are amended to read as
23 follows:

24 (a) The ~~Department~~ Division of Information Systems is authorized to
25 establish, maintain, and operate information technology centers and, in
26 connection therewith, to rent, purchase, install, operate, and maintain
27 information technology for state agencies as authorized in this chapter.

28 (b) The ~~department~~ division is authorized to enter into contracts or
29 agreements with state agencies for the purpose of providing information
30 technology.

31
32 SECTION 6190. Arkansas Code § 25-4-109(e) and (f), concerning the
33 authorization of the Department of Informations Systems to establish,
34 maintain, and operator information technology centers, is amended to read as
35 follows:

36 (e) The ~~department~~ division is authorized to enter into agreements and

1 contracts with public utilities for telecommunications service.

2 (f) The information technology centers operated by the ~~department~~
3 division shall be made available to all state agencies which fall within
4 economical and feasible boundaries.

5
6 SECTION 6191. Arkansas Code § 25-4-110(a), concerning information
7 technology and a biennial information technology plan, is amended to read as
8 follows:

9 (a) The ~~Department~~ Division of Information Systems shall submit status
10 reports annually or when requested to the Joint Committee on Advanced
11 Communications and Information Technology.

12
13 SECTION 6192. The introductory language of Arkansas Code § 25-4-
14 110(c), concerning information technology and a biennial information
15 technology plan, is amended to read as follows:

16 (c) The ~~Department~~ Division of Information Systems shall distribute
17 criteria, elements, form, and format for agency plans. Plans may include, but
18 not be limited to, the following:

19
20 SECTION 6193. Arkansas Code § 25-4-110(d)(1) and (2), concerning
21 information technology and a biennial information technology plan, are
22 amended to read as follows:

23 (d)(1) Plans developed or updated shall be submitted to the ~~Department~~
24 Division of Information Systems.

25 (2) The ~~department~~ division may reject, require modification to,
26 or approve plans as deemed appropriate.

27
28 SECTION 6194. The introductory language of Arkansas Code § 25-4-
29 111(b), concerning prerequisites to acquire information technology, is amended
30 to read as follows:

31 (b) If an agency desires to acquire information technology not part of
32 an information technology plan approved under § 25-4-110, the requesting
33 agency shall submit a waiver request to the Director of the ~~Department~~
34 Division of Information Systems that includes:

35
36 SECTION 6195. Arkansas Code § 25-4-111(c), concerning prerequisites to

1 acquire information technology, is amended to read as follows:

2 (c)(1) Upon evaluation of the waiver request, the ~~Director of the~~
3 ~~Department of Information Systems~~ director shall notify the agency in writing
4 of his or her approval or rejection of the request and his or her reasons.

5 (2) The ~~Director of the Department of Information Systems~~
6 director shall make his or her evaluation in a timely manner. If the ~~Director~~
7 ~~of the Department of Information Systems~~ director requires more than thirty
8 (30) days to complete the evaluation, he or she shall report in writing to
9 the Governor and the Secretary of the Department of Transformation and Shared
10 Services his or her reasons for the delay in completion.

11 (3) If the ~~Director of the Department of Information Systems~~
12 director rejects a request for a waiver, a state agency shall not make any
13 expenditure of public funds for the acquisition or expansion of information
14 technology equipment or services.

15 (4) If the ~~Director of the Department of Information Systems~~
16 director determines that the agency needs additional information technology
17 resources, he or she may:

18 (A) Authorize the agency to acquire the requested
19 information technology in accordance with the state enterprise architecture;

20 (B) Authorize acquisition of a modified information
21 technology configuration;

22 (C) Notify the agency of the availability of ~~Department~~
23 Division of Information Systems facilities to provide the requested
24 information technology; or

25 (D) Recommend that the information technology be provided
26 through the facilities of some other designated state agency.

27

28 SECTION 6196. Arkansas Code § 25-4-112(b), concerning the application
29 of the chapter to an educational institution, is amended to read as follows:

30 (b)(1) A state-supported institution of higher education, a post-
31 secondary vocational-technical school, an area vocational school, or a public
32 school district may request technical assistance regarding information
33 technology from the ~~Department~~ Division of Information Systems.

34 (2)(A) Assistance shall be provided by the ~~department~~ division
35 free of charge within a reasonable period.

36 (B) However, the requesting institution shall reimburse

1 the ~~department~~ division for any actual expenses incurred while providing
2 requested technical assistance.

3
4 SECTION 6197. Arkansas Code § 25-4-114(b), concerning contracts and
5 agreements for information technology, is amended to read as follows:

6 (b) A state agency shall submit to the Director of the ~~Department~~
7 Division of Information Systems for review and approval a request for the
8 state agency to enter into a technology contract or agreement that is not in
9 compliance with the state enterprise architecture.

10
11 SECTION 6198. Arkansas Code § 25-4-115 is amended to read as follows:

12 25-4-115. Professional services contracts between ~~department~~ division
13 and outside vendors.

14 (a)(1) In the event that, due to unforeseen circumstances, the
15 ~~Department~~ Division of Information Systems cannot provide sufficient
16 information technology support to state agencies, the Director of the
17 ~~Department~~ Division of Information Systems is authorized to enter into
18 professional services contracts for the necessary information technology
19 support.

20 (2) The ~~department~~ division may also consolidate information
21 technology needs to satisfy agency requests.

22 (b)(1) The ~~department~~ division may utilize moneys appropriated for
23 maintenance, operation, and payment of regular salaries of the ~~department~~
24 division for the purchase of professional services upon approval thereof by
25 the Chief Fiscal Officer of the State.

26 (2)(A) Provided, however, that before approving the use of
27 moneys appropriated for payment of regular salaries of the ~~department~~
28 division for obtaining professional services, the Chief Fiscal Officer of the
29 State shall determine that resignations, vacancies in positions, or the
30 inability to employ persons with technical skills to provide the services has
31 necessitated that action.

32 (B) In addition, the Chief Fiscal Officer of the State
33 shall obtain the advice of the Legislative Council before approving any
34 transfer of regular salary appropriations to the maintenance and operation
35 appropriation of the agency to be used for payment of professional services.

36

1 SECTION 6199. Arkansas Code § 25-4-116(a), concerning payments for
2 information technology, is amended to read as follows:

3 (a) Before a state agency may enter into an agreement with the
4 ~~Department~~ Division of Information Systems for purchase of information
5 technology, the agency shall certify that adequate appropriations and funds
6 are available for purchasing information technology from the ~~department~~
7 division.

8
9 SECTION 6200. Arkansas Code § 25-4-116(b)(3), concerning payments for
10 information technology, is amended to read as follows:

11 (3) The transfers authorized in this chapter shall be made from
12 time to time within the amounts authorized in the procedures set forth in
13 this chapter, upon payment for information technology purchased from the
14 ~~department~~ division.

15
16 SECTION 6201. Arkansas Code § 25-4-117 is amended to read as follows:
17 25-4-117. Delinquent accounts.

18 (a) For accounts that are thirty (30) days overdue and have no charges
19 contested by the user, the ~~Department~~ Division of Information Systems may
20 request the Chief Fiscal Officer of the State to transfer all or part of the
21 overdue amount from the user's account to the ~~department's~~ division's
22 revolving account. The Chief Fiscal Officer of the State shall transfer the
23 amount within ten (10) working days.

24 (b) For accounts that are sixty (60) days overdue and have charges
25 being contested by the user, the ~~department~~ division may request the Chief
26 Fiscal Officer of the State to transfer all or part of the overdue amount
27 from the user's account to the ~~department's~~ division's revolving account. If
28 the resolution of contested charges favors the user, the user may request the
29 Chief Fiscal Officer of the State to transfer all or part of the overdue
30 amount from the ~~department's~~ division's revolving account to the user's
31 account.

32 (c) The ~~department~~ division is authorized to discontinue information
33 technology service to users who do not make a timely remittance of payment
34 for services rendered and is specifically prohibited from providing services
35 to state agencies lacking funds or sufficient appropriations to pay for the
36 services.

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SECTION 6202. Arkansas Code § 25-4-119(a) and (b), concerning budget procedures for the Department of Information Systems, are amended to read as follows:

(a)(1) Prior to the commencement of budget hearings conducted by the Legislative Council, the Director of the ~~Department~~ Division of Information Systems shall prepare an operating budget indicating the amount of money which will be required to operate the ~~Department~~ Division of Information Systems each year of the succeeding biennium.

(2) The director shall also provide cost information to users of information technology centers, and those who require new or expanded information technology shall be provided cost estimates for inclusion in their budget requests.

(b)(1) When the General Assembly has completed the appropriation process, the director shall oversee budgetary planning for the ~~department~~ division for each fiscal year of the biennium.

(2) The proposed annual operating budget shall be submitted to the ~~Governor~~ Secretary of the Department of Transformation and Shared Services for his or her approval prior to the beginning of each fiscal year.

(3)(A) During the course of the biennium, the director shall make certain that the expenditures of the ~~department~~ division do not exceed the income to be received by the ~~department~~ division for the current fiscal year.

(B) Subject to the written approval of the Chief Fiscal Officer of the State upon the written application of the ~~department~~ division and review by the Legislative Council, in order to effect compliance with state and federal statutory and regulatory provisions:

(i) The director shall adjust rates for services or issue billing adjustments as necessary; or

(ii) Funds sufficient to effect compliance shall be provided to the ~~department~~ division.

(4)(A) If rates charged to a customer are increased to ensure compliance with state and federal statutory and regulatory provisions under subdivision (b)(3) of this section, then the director shall promptly notify the Governor, the Joint Committee on Advanced Communications and Information Technology, and all state agencies and other customers before any changes

1 shall be effected.

2 (B) Rates shall be reviewed by the ~~department~~ division on
3 no less than an annual basis in order to ensure compliance with state and
4 federal statutory and regulatory provisions.

5

6 SECTION 6203. Arkansas Code § 25-4-120(c), concerning revisions to
7 state agencies' budgets, purchasing, and personnel process, is amended to
8 read as follows:

9 (c) The ~~Department~~ Division of Information Systems shall make
10 recommendations regarding revisions to the state budget, purchasing, and
11 personnel process related to information technology to the Legislative
12 Council by March 1 of each even-numbered year.

13

14 SECTION 6204. Arkansas Code § 25-4-121 is amended to read as follows:

15 25-4-121. ~~Department~~ Division of Information Systems Revolving Fund.

16 (a) There is created and established on the books of the Treasurer of
17 State, the Auditor of State, and the Department of Finance and Administration
18 ~~and the Department~~ Division of Information Systems Revolving Fund.

19 (b) The fund shall consist of nonrevenue receipts derived from
20 services provided to various agencies of the federal, state, city, and county
21 governments, and any other moneys which may be provided by law for credit to
22 the fund.

23 (c) All revenues received by the ~~Department~~ Division of Information
24 Systems for providing information technology services shall be deposited in
25 the State Treasury as nonrevenue receipts, there to be used for the
26 maintenance, operation, and improvement of the ~~department~~ division.

27 (d) All revenues received from agencies or other governmental entities
28 for information technology services provided by contracts between the
29 ~~Department of Information Systems~~ division and outside vendors may be
30 deposited in the State Treasury as refund to expenditures.

31 (e) Subject to the written approval of the Chief Fiscal Officer of the
32 State upon written application of the ~~Department of Information Systems~~
33 division and review by the Legislative Council, the Director of the
34 ~~Department~~ Division of Information Systems shall have the authority to
35 transfer funds between the Information Technology Reserve Fund established by
36 §§ 19-5-1056 and 25-4-123 and the ~~Department~~ Division of Information Systems

1 Revolving Fund established under this section for cash management purposes.

2

3 SECTION 6205. Arkansas Code § 25-4-122(a), concerning a reserve of
4 funds for equipment acquisition and loans by the Department of Information
5 Systems, is amended to read as follows:

6 (a)(1) The ~~Department~~ Division of Information Systems is authorized to
7 accumulate a reserve for equipment acquisition in an amount not to exceed the
8 ~~department's~~ division's depreciation expense per fiscal year.

9 (2)(A) In addition, the ~~department~~ division is authorized to
10 obtain from the State Board of Finance loans from the Budget Stabilization
11 Trust Fund to supplement the reserve if the reserve is insufficient to handle
12 the total cost of required equipment acquisitions.

13 (B) These loans and the reserve for equipment acquisition
14 shall be used exclusively for major equipment acquisitions or improvements of
15 information technology required in order to fulfill the requirements for one
16 (1) or more user agencies.

17 (C) The loans from the Budget Stabilization Trust Fund to
18 the Information Technology Reserve Fund shall be repaid within five (5) years
19 from revenues derived from charges to users, and the annual loan repayment
20 amount shall be computed as a part of the total yearly expenses of the
21 ~~department~~ division and shall be charged proportionately to users.

22

23 SECTION 6206. Arkansas Code § 25-4-122(b)(1)(A), concerning a reserve
24 of funds for equipment acquisition and loans by the Department of Information
25 Systems, is amended to read as follows:

26 (b)(1)(A) However, before the board approves any requests for loans by
27 the ~~department~~ division authorized in subdivision (a)(2) of this section, the
28 requests shall be submitted to the Governor for his or her approval after the
29 Governor has first obtained the advice of the Legislative Council in regard
30 thereto.

31

32 SECTION 6207. Arkansas Code § 25-4-122(b)(3), concerning a reserve of
33 funds for equipment acquisition and loans by the Department of Information
34 Systems, is amended to read as follows:

35 (3) After obtaining the Governor's approval in writing, the
36 board shall also review and may approve the loans and establish terms of

1 repayment and a rate of interest to be paid by the ~~Department~~ Division of
2 Information Systems Revolving Fund to the Budget Stabilization Trust Fund.
3 The rate shall be approximately equivalent to the rate of interest the board
4 is receiving on other investments at the time of approving the loan request.
5

6 SECTION 6208. Arkansas Code § 25-4-123(b), concerning the Information
7 Technology Reserve Fund, is amended to read as follows:

8 (b) This fund shall consist of those funds transferred from the
9 ~~Department~~ Division of Information Systems Revolving Fund in an amount up to
10 the authorized reserve for equipment acquisition as certified by the Chief
11 Fiscal Officer of the State within thirty (30) days following the closing of
12 each fiscal year, any loans which may be received from the Budget
13 Stabilization Trust Fund, and any other moneys which may be provided by law,
14 there to be used exclusively for major equipment acquisitions or improvements
15 as set out in § 25-4-122.
16

17 SECTION 6209. Arkansas Code § 25-4-124 is amended to read as follows:

18 25-4-124. Yearly computation of expenses – Disposition of surplus
19 funds.

20 (a) Within sixty (60) days following the final closing entries for the
21 consolidated annual financial report for each fiscal year, the Director of
22 the ~~Department~~ Division of Information Systems shall obtain from the Chief
23 Fiscal Officer of the State the written approval of a plan that shall include
24 a proposed methodology to make all appropriate adjustments to effect
25 compliance with state and federal statutory and regulatory provisions for the
26 fiscal year.

27 (b)(1) If the plan under subsection (a) of this section requires
28 appropriate credits or debits to customer accounts to effect compliance with
29 state and federal statutory and regulatory provisions, the ~~Department~~
30 Division of Information Systems shall make any adjustments within sixty (60)
31 days after approval of the plan.

32 (2) In the event that a customer no longer uses the services of
33 the ~~department~~ division, a fund transfer in the amount of that customer's
34 credits under the plan described in subsection (a) of this section shall be
35 made from the ~~Department~~ Division of Information Systems Revolving Fund to
36 the customer's treasury fund, upon certification of the amount by the

1 director to the Chief Fiscal Officer of the State and the Treasurer of State.
2 In the event the customer does not have a treasury fund, a warrant shall be
3 issued by the ~~department~~ division in payment of the customer's credit.

4 (c) In the event that the customer has an unpaid account balance due
5 the ~~department~~ division, the customer's credit shall be withheld until the
6 account balance is satisfied.

7
8 SECTION 6210. Arkansas Code § 25-4-125(a), concerning the State
9 Broadband Manager, is amended to read as follows:

10 (a) The Director of the ~~Department~~ Division of Information Systems is
11 designated the State Broadband Manager.

12
13 SECTION 6211. Arkansas Code § 25-4-125(b)(1)(A), concerning the State
14 Broadband Manager, is amended to read as follows:

15 (A) State agencies, boards, commissions, and
16 constitutional officers, including without limitation the Governor,
17 ~~Department~~ the Division of Education, ~~Department~~ the Division of Higher
18 Education, and the Arkansas Department of Transportation;

19
20 SECTION 6212. Arkansas Code § 25-4-126(a), concerning the Chief Data
21 Officer and the Chief Privacy Officer, is amended to read as follows:

22 (a)(1) The Director of the ~~Department~~ Division of Information Systems
23 shall select an individual to serve as the Chief Data Officer of the
24 ~~Department~~ Division of Information Systems and the Chief Privacy Officer of
25 the ~~Department~~ Division of Information Systems.

26 (2) The Chief Data Officer of the ~~Department~~ Division of
27 Information Systems and the Chief Privacy Officer of the ~~Department~~ Division
28 of Information Systems shall not be the same person.

29
30 SECTION 6213. The introductory language of Arkansas Code § 25-4-
31 126(b), concerning the Chief Data Officer and Chief Privacy Officer, is
32 amended to read as follows:

33 (b) The Chief Data Officer of the ~~Department~~ Division of Information
34 Systems shall:

35
36 SECTION 6214. The introductory language of Arkansas Code § 25-4-

1 126(c), concerning the Chief Data Officer and Chief Privacy Officer, is
2 amended to read as follows:

3 (c) The Chief Privacy Officer of the ~~Department~~ Division of
4 Information Systems shall:

5

6 SECTION 6215. Arkansas Code § 25-4-127(a), concerning the creation and
7 duties of the Data and Transparency Panel, is amended to read as follows:

8 (a) The Data and Transparency Panel is created within the ~~Department~~
9 Division of Information Systems.

10

11 SECTION 6216. Arkansas Code § 25-4-127(b)(3)-(5), concerning the
12 creation and duties of the Data and Transparency Panel, are amended to read
13 as follows:

14 (3) The secretaries, directors, or their designees, of the
15 following ~~departments~~ entities:

- 16 (A) The Arkansas Crime Information Center;
17 (B) The ~~Department~~ Division of Arkansas State Police;
18 (C) The ~~Department~~ Division of Career and Technical
19 Education;
20 (D) The ~~Department~~ Division of Community Correction;
21 (E) The ~~Department~~ Division of Correction;
22 (F) The ~~Department~~ Division of Elementary and Secondary
23 Education;
24 (G) The Department of Finance and Administration;
25 (H) The Department of Health;
26 (I) The ~~Department~~ Division of Higher Education;
27 (J) The Department of Human Services;
28 (K) The ~~Department~~ Division of Information Systems; and
29 (L) The Department of Labor and Licensing;

30 (4)(A) The Chief Data Officer of the ~~Department~~ Division of
31 Information Systems.

32 (B) The Chief Data Officer of the ~~Department~~ Division of
33 Information Systems shall be the Chair of the Data and Transparency Panel.

34 (C) The members of the panel shall select a vice chair
35 annually; and

36 (5) The Chief Privacy Officer of the ~~Department~~ Division of

1 Information Systems.

2

3 SECTION 6217. Arkansas Code § 25-4-127(c)(5), concerning the creation
4 and duties of the Data and Transparency Panel, are amended to read as
5 follows:

6 (5) Evaluate and identify data that may be provided to the
7 public in accordance with data standards and specifications developed by the
8 ~~Department~~ Division of Information Systems; and

9

10 SECTION 6218. Arkansas Code § 25-4-128(a), concerning the
11 confidentiality of records of the Data and Transparency Panel, is amended to
12 read as follows:

13 (a) All records, reports, and other information obtained by the Data
14 and Transparency Panel shall be confidential unless approved for publication
15 in accordance with data standards and specifications developed by the
16 ~~Department~~ Division of Information Systems.

17

18 SECTION 6219. Arkansas Code § 25-8-103 is repealed.

19 ~~25-8-103. Office of Personnel Management State Personnel~~
20 ~~Administrator.~~

21 ~~(a) There is created the Office of Personnel Management of the~~
22 ~~Division of Management Services of the Department of Finance and~~
23 ~~Administration.~~

24 ~~(b)(1) The Director of the Office of Personnel Management of the~~
25 ~~Division of Management Services of the Department of Finance and~~
26 ~~Administration shall be known as the State Personnel Administrator, and he or~~
27 ~~she shall be employed by the Director of the Department of Finance and~~
28 ~~Administration with the advice and consent of the Governor.~~

29 ~~(2) The Office of Personnel Management of the Division of~~
30 ~~Management Services of the Department of Finance and Administration shall be~~
31 ~~under the overall direction, control, and supervision of the Director of the~~
32 ~~Department of Finance and Administration.~~

33

34 SECTION 6220. Arkansas Code § 25-8-107(c), concerning the Office of
35 Child Support Enforcement, is amended to read as follows:

36 (c) The Department of Human Services and the ~~Department~~ Division of

1 Information Systems shall grant access to and provide information determined
2 by the Office of Child Support Enforcement to be necessary to successfully
3 accomplish its mission.

4
5 SECTION 6221. Arkansas Code § 25-10-138 is amended to read as follows:
6 25-10-138. Education requirements for certain Division of Youth
7 Services employees.

8 (a) With the assistance of the Office of Personnel Management ~~of the~~
9 ~~Division of Management Services of the Department of Finance and~~
10 ~~Administration~~, the Division of Youth Services ~~of the Department of Human~~
11 ~~Services~~ shall promulgate regulations to increase the education requirements
12 for youth service workers and security officers employed by the ~~Division of~~
13 ~~Youth Services~~ division. If the services are under contract with the ~~Division~~
14 ~~of Youth Services~~ division, the employees of the contractor shall meet the
15 education requirements promulgated by the ~~Division of Youth Services~~
16 division.

17 (b) No regulation pertaining to education requirements for youth
18 service workers or security officers promulgated hereafter by the ~~Division of~~
19 ~~Youth Services~~ division shall be effective until reviewed by the Legislative
20 Council, the House Committee on Aging, Children and Youth, Legislative and
21 Military Affairs, and the Senate Interim Committee on Children and Youth or
22 appropriate subcommittees thereof of the General Assembly.

23
24 SECTION 6222. The introductory language of Arkansas Code § 25-16-
25 1006(a), concerning the administration and enforcement of rules of the Office
26 of Personnel Management, is amended to read as follows:

27 (a) The Office of Personnel Management ~~of the Division of Management~~
28 ~~Services of the Department of Finance and Administration~~ shall establish
29 rules and forms for all state agencies that will enable each public official
30 and each supervisory employee within a state agency to determine whether:

31
32 SECTION 6223. Arkansas Code § 25-18-702(a)(1), concerning the
33 standards and policies of the Director of the Department of Information
34 Systems, is amended to read as follows:

35 (a)~~(1)~~ The Director of the ~~Department~~ Division of Information Systems
36 shall establish standards and polices governing the use, management,

1 retention, privacy, and security of electronic records of state agencies.

2
3 SECTION 6224. Arkansas Code § 25-18-702(c), concerning the standards
4 and policies of the Director of the Department of Information Systems, is
5 amended to read as follows:

6 (c) The Director of the ~~Department~~ Division of Information Systems
7 shall make a monthly report to the Joint Committee on Advanced Communications
8 and Information Technology regarding the status of the development of the
9 standards and policies described in this section.

10
11 SECTION 6225. Arkansas Code § 25-18-703 is amended to read as follows:
12 25-18-703. State agency standards and policies.

13 A state agency may use the standards and policies developed by the
14 Director of the ~~Department~~ Division of Information Systems under § 25-18-702,
15 or it may develop its own standards and policies consistent with the
16 requirements established in § 25-18-702(b).

17
18 SECTION 6226. Arkansas Code § 25-26-204(a)(1), concerning procurement
19 requirements, is amended to read as follows:

20 (a)(1) The technology access clause specified in § 25-26-203 shall be
21 developed by the ~~Department~~ Division of Information Systems and shall require
22 compliance with nonvisual access standards established by the ~~department~~
23 division.

24
25 SECTION 6227. The introductory language of Arkansas Code § 25-26-
26 204(b), concerning procurement requirements, is amended to read as follows:

27 (b) The nonvisual access standards established by the ~~department~~
28 division under subsection (a) of this section shall:

29
30 SECTION 6228. Arkansas Code § 25-27-103(a)(1), concerning the board of
31 the Information Network of Arkansas, is amended to read as follows:

32 (1) The ~~Executive~~ Director of the Arkansas Economic Development
33 Commission or his or her designee;

34
35 SECTION 6229. Arkansas Code § 25-27-103(a)(3) and (4), concerning the
36 creation of the board of the Information Network of Arkansas, are amended to

1 read as follows:

2 (3) The ~~Director~~ Secretary of the Department of Finance and
3 Administration, or ~~the director's~~ his or her designee;

4 (4) Two (2) members, or their designees, who are chief executive
5 officers of agencies of the executive branch other than the Department of
6 Finance and Administration and the ~~Department~~ Division of Information
7 Systems, shall be appointed by the Governor;

8

9 SECTION 6230. Arkansas Code § 25-27-103(a)(8), concerning the board of
10 the Information Network of Arkansas, is amended to read as follows:

11 (8) The Director of the ~~Department~~ Division of Information
12 Systems, or the director's designee.

13

14 SECTION 6231. Arkansas Code § 25-27-104(a)(1), concerning duties of
15 the Information Network of Arkansas, is amended to read as follows:

16 (1) To develop and implement an electronic gateway system to
17 provide electronic access to members of the public to public information and
18 to develop, implement, and promote the use of electronic commerce and digital
19 signature applications within the state in cooperation with the ~~Department~~
20 Division of Information Systems;

21

22 SECTION 6232. Arkansas Code § 25-27-104(a)(7), concerning duties of
23 the Information Network of Arkansas, is amended to read as follows:

24 (7) To serve in an advisory capacity to the Department of
25 Finance and Administration, the ~~Department~~ Division of Information Systems,
26 and other state agencies regarding the dissemination to and collection of
27 state data for the citizens and businesses of Arkansas;

28

29 SECTION 6233. Arkansas Code § 25-27-104(b)(4), concerning duties of
30 the Information Network of Arkansas, is amended to read as follows:

31 (4) The Information Network of Arkansas shall cooperate with the
32 ~~Department of Information Systems~~ division to fulfill the purposes of the
33 Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

34

35 SECTION 6234. Arkansas Code § 25-27-105(a)(1), concerning a contract
36 with a network manager, is amended to read as follows:

1 (a)(1) The Information Network of Arkansas ~~shall~~ may contract with a
2 network manager and shall use a competitive bid process after developing, in
3 consultation with the ~~Department~~ Division of Information Systems, criteria
4 and specifications for such a network manager and his or her duties.

5
6 SECTION 6235. Arkansas Code § 25-27-105(c), concerning a contract with
7 a network manager, is amended to read as follows:

8 (c) The ~~Department of Information Systems~~ division may provide to the
9 Information Network of Arkansas such staff and other assistance under
10 contract.

11
12 SECTION 6236. Arkansas Code § 25-32-117(b), concerning the creation
13 and retention of electronic records and conversion of written records by
14 governmental agencies, is amended to read as follows:

15 (b) Each state agency shall comply with applicable standards and
16 policies adopted or established by the Department of ~~Finance and~~
17 ~~Administration~~ Transformation and Shared Services with advice and review from
18 the ~~Department~~ Division of Information Systems to determine whether and the
19 extent to which it will retain and convert written records to electronic
20 records.

21
22 SECTION 6237. Arkansas Code § 25-32-118(a)(2), concerning acceptance
23 and distribution of electronic records by governmental agencies, is amended
24 to read as follows:

25 (2) For state agencies, the determinations shall be consistent
26 with applicable standards and policies adopted or established by the
27 Department of ~~Finance and Administration~~ Transformation and Shared Services
28 with advice and review from the ~~Department~~ Division of Information Systems.

29
30 SECTION 6238. Arkansas Code § 25-33-101(a)(1) and (2), concerning the
31 creation of the State Technology Council, are amended to read as follows:

32 (1) The Director of the ~~Department~~ Division of Information
33 Systems or his or her designee who shall act as chair of the council;

34 (2) The ~~Director of the Department of Finance and Administration~~
35 Secretary of the Department of Transformation and Shared Services or his or
36 her designee;

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SECTION 6239. Arkansas Code § 25-34-104(a)(1), concerning agency policy, is amended to read as follows:

(a)(1) Each agency shall prepare and implement an agency-wide policy for the management and sale of agency surplus computer equipment and electronics in accord with the Director of the ~~Department~~ Division of Information Systems policies for review and replacement of computer and electronic equipment.

SECTION 6240. Arkansas Code § 25-34-104(b), concerning agency policy, is amended to read as follows:

(b) ~~Within sixty (60) days after August 12, 2005, the~~ The policy shall be presented to the Director of the ~~Department~~ Division of Information Systems and the Legislative Council for review.

SECTION 6241. Arkansas Code § 27-14-1708(b)(1), concerning the temporary tag database, is amended to read as follows:

(b)(1) The vehicle temporary tag database shall be administered by the ~~division~~ Revenue Division of the Department of Finance and Administration with the assistance of the ~~Department~~ Division of Information Systems or other designated agent with whom the division may contract to supply technical database and data processing expertise.

SECTION 6242. Arkansas Code § 27-14-1708(c), concerning the temporary tag database, is amended to read as follows:

(c) The ~~division~~ Revenue Division of the Department of Finance and Administration shall have the authority to enter into or to make agreements, arrangements, or declarations necessary to carry out the provisions of this section.

SECTION 6243. The introductory language of Arkansas Code § 27-14-1708(d)(1), concerning the temporary tag database, is amended to read as follows:

(d)(1) Upon request, the ~~division~~ Revenue Division of the Department of Finance and Administration may release information in the vehicle temporary tag database to:

1
2 SECTION 6244. Arkansas Code § 27-14-1708(e), concerning the temporary
3 tag database, is amended to read as follows:

4 (e) The ~~division~~ Revenue Division of the Department of Finance and
5 Administration or the reporting company shall not be liable for any damages
6 to any property or person due to any act or omission in the reporting or
7 keeping of any record or information contained in the vehicle temporary tag
8 database or the issuing or renewing of any motor vehicle registration in
9 accordance with the vehicle temporary tag database.

10
11 SECTION 6245. Arkansas Code Title 25, Chapter 43, is amended to add an
12 additional subchapter to read as follows:

13 Subchapter 16 – Department of Veterans Affairs

14
15 25-43-1601. Department of Veterans Affairs – Creation.

16 There is created the Department of Veterans Affairs as a cabinet-level
17 department.

18
19 25-43-1602. State entities transferred to the Department of Veterans
20 Affairs.

21 (a) The administrative functions of the following state entities are
22 transferred to the Department of Veterans Affairs pursuant to a cabinet-level
23 department transfer:

24 (1) The Arkansas Veterans' Child Welfare Service, created under
25 § 20-81-101;

26 (2) The Arkansas Veterans' Commission, created under § 20-81-
27 104;

28 (3) The county veterans' service officer programs, created under
29 § 20-81-106;

30 (4) The Department of Veterans Affairs, created under § 20-81-
31 102;

32 (5) The state veterans' cemetery system, created under § 20-81-
33 112; and

34 (6) The veterans' homes, established under § 20-81-105.

35 (b) Unless otherwise provided by law, a cabinet-level department
36 transfer under subsection (a) of this section includes all state entities

1 under a state entity transferred to the Department of Veterans Affairs under
2 subsection (a) of this section, including without limitation a division,
3 office, program, or other unit of a state entity transferred to the
4 Department of Veterans Affairs under subsection (a) of this section.

5 (c) Unless otherwise provided by law, a state entity whose
6 administrative functions have been transferred to the Department of Veterans
7 Affairs under subsection (a) of this section shall otherwise continue to
8 exercise the duties of the state entity under the administration of the
9 cabinet-level Department of Veterans Affairs in the same manner as before the
10 creation of the cabinet-level department.

11
12 25-43-1603. Powers and duties of the Department of Veterans Affairs.

13 (a) The Department of Veterans Affairs shall:

14 (1) Supervise the operation of the veterans' homes under § 20-
15 81-105;

16 (2) Supervise the activities, training, and testing of the
17 county veterans' service officers located throughout the State of Arkansas;
18 and

19 (3) Perform all administrative functions for the state entities
20 under the administration of the department.

21 (b) The department is authorized to develop and promulgate all rules
22 necessary for the enforcement and implementation of the provisions of this
23 act and all applicable federal rules and regulations.

24
25 25-43-1604. Secretary of the Department of Veterans Affairs.

26 (a) The executive head of the Department of Veterans Affairs shall be
27 the Secretary of the Department of Veterans Affairs.

28 (b) The secretary shall be appointed by the Governor, subject to
29 confirmation by the Senate, and shall serve at the pleasure of the Governor.

30 (c) Each division of the department shall be under the direction,
31 control, and supervision of the secretary.

32 (d) The secretary may delegate his or her functions, powers, and
33 duties to various divisions or employees of the department as he or she shall
34 deem desirable and necessary for the effective and efficient operation of the
35 department.

36 (e) The secretary may, unless otherwise provided by law:

1 (1) Hire department personnel;
2 (2) Perform or assign duties assigned to the department; and
3 (3) Serve as the director, or the administrative or executive
4 head of any state entity under the administrative control of the department
5 if the secretary also meets all statutory requirements for the position.

6 (f) The Governor may appoint a qualified Secretary of the Department
7 of Veterans Affairs who has:

8 (1) Served in the United States Armed Forces during a period of
9 conflict as defined by the United States Congress;

10 (2) Been honorably discharged from the United States Armed
11 Forces; and

12 (3) Been a resident of the State of Arkansas for two (2) or more
13 years preceding his or her appointment.

14 (g) The secretary shall promote and supervise the dissemination of
15 available information concerning the rights of veterans and their dependents.

16 (h) The secretary may establish, maintain, and operate district
17 offices within the State of Arkansas as may be necessary.

18 (i) The secretary may employ other employees, full-time or part-time,
19 as may be determined necessary, within the limits of the funds appropriated
20 for that purpose.

21 (j)(1) An employee under the supervision of the department shall not
22 accept, receive, or charge any money, article, or thing of value for the
23 performance of any service rendered to any veteran or his or her dependents
24 at any time or in any manner.

25 (2) Any person who violates the provisions of this subsection is
26 guilty of a misdemeanor and upon conviction shall be fined not less than
27 fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or
28 imprisoned not less than thirty (30) days nor more than six (6) months, or
29 both.

30
31 25-43-1605. Veterans service officers.

32 (a) The Secretary of the Department of Veterans Affairs may employ
33 veterans service officers, full-time or part-time, as may be determined
34 necessary, within the limits of the funds appropriated for that purpose.

35 (b)(1) A veterans service officer shall have served in the United
36 States Armed Forces and shall have been honorably discharged from the United

1 States Armed Forces.

2 (2) All veterans service officers of the Department of Veterans
3 Affairs shall have knowledge of all laws, both federal and state, relating to
4 the rights and benefits of all veterans and their dependents and shall aid
5 and assist all veterans and their dependents in securing their rights and
6 benefits.

7

8 SECTION 6246. Arkansas Code § 11-15-105 is amended to read as follows:
9 11-15-105. Verification of eligibility.

10 The Department of Veterans Affairs and the ~~Department~~ Division of
11 Workforce Services shall assist a private employer or a local government
12 employer in determining if an applicant or employee is a veteran, spouse of a
13 disabled veteran, or surviving spouse of a veteran.

14

15 SECTION 6247. Arkansas Code § 20-81-101(a), concerning the Arkansas
16 Veterans' Child Welfare Service, is amended to read as follows:

17 (a)(1) There is established the Arkansas Veterans' Child Welfare
18 Service.

19 (2) The Arkansas Veterans' Child Welfare Service shall be under
20 the direction of a director to be named by the Governor upon written
21 recommendation by the governing body of the ~~American Legion Department of~~
22 ~~Arkansas~~ American Legion - Department of Arkansas Foundation, Inc.

23 (3) The Director of the Arkansas Veterans' Child Welfare Service
24 shall serve at the pleasure of the Governor.

25 (4) The director shall report to the Secretary of the Department
26 of Veterans Affairs.

27

28 SECTION 6248. Arkansas Code § 20-81-102 is repealed.

29 ~~20-81-102. Department of Veterans Affairs - Creation - Powers and~~
30 ~~duties.~~

31 ~~(a) There is created the Department of Veterans Affairs.~~

32 ~~(b) The department shall:~~

33 ~~(1) Supervise the operation of the Veterans' Home; and~~

34 ~~(2) Supervise the activities, training, and testing of the~~

35 ~~County Veterans' Service officers located throughout the State of Arkansas.~~

36 ~~(c) The department is authorized to develop and promulgate all rules~~

1 ~~and regulations necessary for the enforcement and implementation of the~~
2 ~~provisions of this act and all applicable federal rules and regulations.~~

3
4 SECTION 6249. Arkansas Code § 20-81-103 is repealed.

5 ~~20-81-103. Department of Veterans Affairs—Appointment of director—~~
6 ~~Employees.~~

7 ~~(a) The Governor is authorized to appoint a qualified Director of the~~
8 ~~Department of Veterans Affairs who shall have served in the United States~~
9 ~~Armed Forces during armed conflict as set forth by the United States~~
10 ~~Congress, who has been honorably discharged therefrom, and who shall have~~
11 ~~been a resident of the State of Arkansas for two (2) years preceding his or~~
12 ~~her appointment.~~

13 ~~(b) The director shall promote and supervise the dissemination of all~~
14 ~~available information concerning the rights of all veterans and their~~
15 ~~dependents.~~

16 ~~(c) The director may establish, maintain, and operate district offices~~
17 ~~within the State of Arkansas as may be necessary.~~

18 ~~(d) The director is authorized to employ an assistant director and~~
19 ~~such other employees, full-time or part-time, as may be determined necessary,~~
20 ~~subject to approval of the Governor and within the limits of the funds~~
21 ~~appropriated therefor.~~

22 ~~(e)(1) A veterans' claims specialist shall have served in the United~~
23 ~~States Armed Forces and shall have been honorably discharged therefrom.~~

24 ~~(2) All veterans' claims specialists of the Department of~~
25 ~~Veterans Affairs shall familiarize themselves with all laws, both federal and~~
26 ~~state, relating to rights and benefits of all veterans and their dependents~~
27 ~~and shall aid and assist all veterans and their dependents in securing their~~
28 ~~rights and benefits.~~

29 ~~(f)(1) All employees under the supervision of the department shall not~~
30 ~~for themselves accept, receive, or charge any money, article, or thing of~~
31 ~~value for the performing of any service rendered to any veteran or his or her~~
32 ~~dependents at any time or in any manner.~~

33 ~~(2) Any person who shall violate the provisions of this~~
34 ~~subsection shall be deemed guilty of a misdemeanor and upon conviction shall~~
35 ~~be fined not less than fifty dollars (\$50.00) nor more than five hundred~~
36 ~~dollars (\$500), or imprisoned not less than thirty (30) days nor more than~~

1 ~~six (6) months, or both.~~

2
3 SECTION 6250. Arkansas Code § 20-81-104(a)(1), concerning the Arkansas
4 Veterans' Commission, is amended to read as follows:

5 (1) Serve as the advisory body for the ~~Director~~ Secretary of the
6 Department of Veterans Affairs;

7
8 SECTION 6251. Arkansas Code § 20-81-104(c), concerning the Arkansas
9 Veterans' Commission, is amended to read as follows:

10 (c) The Arkansas Veterans' Commission shall make recommendations to
11 the ~~director~~ secretary for the operation and improvement of the efficiency of
12 the ~~Veterans' Home~~ veterans' homes established under § 20-81-105 and ~~a~~ the
13 state veterans' cemetery system established under § 20-81-112.

14
15 SECTION 6252. Arkansas Code § 20-81-105 is amended to read as follows:
16 20-81-105. Veterans' ~~Home~~ homes.

17 (a) The Department of Veterans Affairs is authorized to establish and
18 maintain ~~a~~ one (1) or more ~~Veterans' Home~~ veterans' homes at ~~a location~~
19 locations selected by the ~~Director~~ Secretary of the Department of Veterans
20 Affairs, after seeking advice from the Arkansas Veterans' Commission, ~~and the~~
21 ~~Arkansas Veterans' Home Task Force [abolished]~~.

22 (b) The department is authorized to employ staff to operate ~~the home~~
23 the veterans' homes as it deems appropriate and as authorized by biennial
24 appropriation.

25 (c)(1) ~~The~~ Each veterans' home shall be operated under the supervision
26 of the department.

27 (2) The ~~director~~ secretary shall be the administrative head of
28 the ~~home~~ veterans' homes.

29 (3) The secretary may delegate the administration of each
30 veterans' home to an employee of the Department of Veterans Affairs.

31 (d)(1) The department shall promulgate appropriate guidelines for
32 determining eligibility of veterans for admission to ~~the~~ a veterans' home and
33 the monetary charges to be made for veterans residing in ~~the~~ a veterans'
34 home. All guidelines shall conform to the federal requirements to qualify ~~the~~
35 ~~home~~ veterans' homes as ~~a nursing home~~ nursing homes for veterans and to
36 render the ~~home~~ veterans' homes eligible to receive federal financial

1 assistance.

2 (2)(A) Notwithstanding the provisions of § 20-8-101 et seq., the
3 ~~home~~ veterans' homes may be used as ~~a nursing home~~ nursing homes for veterans
4 without obtaining a certificate of need.

5 (B) Bed capacity shall not exceed ~~one hundred fifty (150)~~ two
6 hundred twenty (220) beds.

7 (e) In the administration of the ~~home~~ veterans' homes, the ~~director~~
8 secretary is authorized to do the following:

9 (1) Establish accounts to record the receipt and disbursement of
10 funds from resident veterans to pay for a portion of their maintenance at ~~the~~
11 ~~home~~ a veterans' home;

12 (2) Develop policies for determining charges to be made to
13 resident veterans;

14 (3) Develop accounts and procedures pertaining to incompetent
15 residents;

16 (4) Establish procedures and accounts for payment by ~~the home~~ a
17 veteran's home to its residents for work performed at the veterans' home;

18 (5) Establish such other accounts as are necessary to the
19 orderly administration of the ~~home~~ veterans' homes; and

20 (6) Establish policies necessary for the operation of the ~~home~~
21 veterans' homes.

22 (f) At the end of each fiscal year, the ~~director~~ secretary shall
23 certify to the Chief Fiscal Officer of the State the amount of nonrevenues to
24 be retained in the Miscellaneous Agencies Fund Account. All other moneys
25 shall be transferred to the General Revenue Allotment Reserve Fund according
26 to existing laws.

27

28 SECTION 6253. Arkansas Code § 20-81-107 is amended to read as follows:
29 20-81-107. Gifts, volunteer services, etc.

30 (a) The ~~Director~~ Secretary of the Department of Veterans Affairs is
31 authorized to arrange for and accept through such mutual arrangement as may
32 be made the volunteer services, equipment, gifts, facilities, properties,
33 supplies, and personnel of any state, county, and municipal offices and
34 agencies and of veterans' fraternal, welfare, civic, and service
35 organizations in the furtherance of the purposes of this act.

36 (b) The ~~director~~ secretary may accept on behalf of the Department of

1 Veterans Affairs from any natural person or legal entity the donation of real
2 property for use as a cemetery for the interment of Arkansas veterans of the
3 United States Armed Forces and their immediate next of kin as defined by the
4 department.

5 (c) The ~~director~~ secretary may accept on behalf of the department from
6 any source the donation of gifts, grants, cash, bequeaths, real or personal
7 property, and equipment for the establishment, construction, maintenance, and
8 operations of any state-owned and ~~operated Veterans' Home~~ state-operated
9 veterans' home.

10

11 SECTION 6254. Arkansas Code § 20-81-108(b), concerning actions by
12 municipal governing bodies, is amended to read as follows:

13 (b) All offices shall be under the supervision of the ~~Director~~
14 Secretary of the Department of Veterans Affairs, and all work of the offices
15 shall be coordinated with the department.

16

17 SECTION 6255. Arkansas Code § 27-24-205 is amended to read as follows:
18 27-24-205. Additional special license plates.

19 The ~~Director~~ Secretary of the Department of Finance and Administration
20 shall examine the following factors to determine whether to create and issue
21 additional special license plates under this subchapter:

22 (1) Whether an application for the creation of an additional
23 special license plate under this subchapter has been filed by either:

24 (A) The Adjutant General ~~for~~ of the State of Arkansas for
25 a special license plate related to members of the National Guard and reserve
26 components of the armed forces; or

27 (B) The ~~Director~~ Secretary of the Department of Veterans
28 Affairs for a special license plate related to veterans or any other branch
29 of the ~~armed forces of the~~ United States Armed Forces; and

30 (2) Whether there has been a recent armed conflict or war in
31 which members of the United States Armed Forces, the National Guard, or the
32 reserve components of the armed services have served.

33

34 SECTION 6256. Arkansas Code § 27-24-209(c)(2)(A), concerning the
35 redesign and simplification of military service and veterans' special license
36 plates, is amended to read as follows:

1 (2)(A) The office is to seek the advice and input of the
2 ~~Director~~ Secretary of the Department of Veterans Affairs and ~~The~~ the Adjutant
3 General ~~for~~ of the State of Arkansas on the design of the branch decal.
4

5 SECTION 6257. Arkansas Code § 27-24-209(d)(3), concerning the redesign
6 and simplification of military service and veterans' special license plates,
7 is amended to read as follows:

8 (3) The office is to seek the advice and input of the ~~director~~
9 secretary and ~~The~~ the Adjutant General ~~for~~ of the State of Arkansas on the
10 design of the medal decal, which medal decals should be issued, and the
11 timing of the issuance of the medal decals.
12

13 SECTION 6258. DO NOT CODIFY. Effect of transfer on retirement system
14 membership and health insurance plan participation.

15 (a) As used in this section, "retirement system" means:

16 (1) The Arkansas Teacher Retirement System, established by the
17 Arkansas Teacher Retirement System Act, § 24-7-201 et seq.;

18 (2) The Arkansas State Highway Employees' Retirement System,
19 established by § 24-5-103;

20 (3) The Arkansas Public Employees' Retirement System,
21 established by § 24-4-103;

22 (4) The State Police Retirement System, established by § 24-6-
23 203;

24 (5) The Arkansas Judicial Retirement System, established by §
25 24-8-201 et seq.;

26 (6) An alternate retirement plan for:

27 (A) A college, university, or the Department of Higher
28 Education provided for under § 24-7-801 et seq.; and

29 (B) A vocational-technical school or the Department of
30 Career Education provided for under § 24-7-901 et seq.;

31 (7) The Arkansas Local Police and Fire Retirement System
32 provided for under § 24-10-101 et seq.; and

33 (8) A firemen's relief and pension fund or a policemen's pension
34 and relief fund provided for under § 24-11-101 et seq.

35 (b) If this act results in an employee who is a current member of a
36 retirement system prior to the effective date of this act being transferred

1 to or affiliated with a cabinet-level department that is covered by a
2 different retirement system than his or her previous state entity, the
3 employee may, within one hundred eighty (180) days of the effective date of
4 this act by written election and notice to the new employer and affected
5 retirement system, make a one-time choice to:

6 (1) Remain in his or her same retirement system prior to the
7 effective date of this act, under the same conditions then provided by law or
8 as may later be provided by law; or

9 (2) Become a member of the retirement system of the cabinet-
10 level department to which the employee is transferred to or affiliated with
11 under this act, under the same conditions for a reciprocal member to be
12 transferred as an active member to a reciprocal system as currently provided
13 by law under the system to which the reciprocal member is transferred.

14 (c) If this act results in an employee being transferred to or
15 affiliated with a cabinet-level department that is covered by a different
16 health insurance plan than his or her previous state entity, the employee
17 may, within one hundred eighty (180) days of the effective date of this act,
18 make a one-time choice between:

19 (1) Continuing to participate in his or her health insurance
20 plan prior to the effective date of this act, under the same conditions then
21 provided by law or as may later be provided by law; or

22 (2) Participating in the health insurance plan of the cabinet-
23 level department to which the employee is transferred to or affiliated with
24 under this act, under the same conditions then provided by law or as may
25 later be provided by law.

26 (d)(1)(A) A retirement system may issue policies establishing the
27 procedure for an employee to exercise benefit options under subsection (b) of
28 this section.

29 (B) The State and Public School Life and Health Insurance
30 Board may issue policies establishing the procedure for an employee to
31 exercise benefit options under subsection (c) of this section.

32 (2) A policy under subdivision (d)(1) of this section is not a
33 rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

34
35 SECTION 6259. DO NOT CODIFY. Boards and commissions – Terms.

36 (a) Except as provided in this act, including without limitation this

1 section, the members of a board, commission, committee, task force, or
2 similar state entity subject to a cabinet-level department transfer under
3 this act shall:

4 (1) Continue to be selected in the same manner as provided by
5 Arkansas law; and

6 (2) Serve for the terms provided for under Arkansas law.

7 (b) To the extent that membership or service on a board, commission,
8 committee, task force, or similar state entity relates to the holding of an
9 office or title, the membership of the board, commission, committee, task
10 force, or similar state entity at issue shall be revised to include the
11 appropriate official under this act if:

12 (1) The name of the office or title is revised under this act;
13 or

14 (2) The holder of the office or title changes by the operation
15 of this act.

16 (c)(1) The members of the Health Information Exchange Council shall be
17 reappointed on July 1, 2019.

18 (2) The terms of the members of the Health Information Exchange
19 Council shall expire upon the promulgation of rules by the Department of
20 Health concerning the terms and future appointments of the members of the
21 Health Information Exchange Council or upon the transfer of the operational
22 responsibility and authority for the State Health Alliance and Records
23 Exchange to a nonprofit corporation.

24
25 SECTION 6260. DO NOT CODIFY. CONSTRUCTION.

26 (a) Except as provided in subsection (b) of this section, to the
27 extent that a conflict exists between an act of the regular session of the
28 Ninety-Second General Assembly and this act:

29 (1) Section 1-2-107 shall not apply; and

30 (2) All of the enactments of each act shall be given effect
31 except to the extent of irreconcilable conflicts, in which case the
32 conflicting provision of this act shall prevail.

33 (b) This section shall not revive or re-enact any provision of the
34 Arkansas Code that has been repealed by an act of the regular session of the
35 Ninety-Second General Assembly, including without limitation this act.

36

1 SECTION 6261. DO NOT CODIFY. Funding and classification of cabinet-
2 level department secretaries.

3 (a) The secretary positions established by § 25-43-108(d)(1) shall be
4 funded from existing resources or the State Central Services Fund if
5 necessary, as determined by the Chief Fiscal Officer of the State.

6 (b) The Office of Personnel Management, as directed by the Governor,
7 shall establish and submit the appropriate class code, grade, or line item
8 maximum for each cabinet-level department secretary to the Legislative
9 Council, or to the Joint Budget Committee if during a legislative session,
10 for its review before July 1, 2019.

11
12 SECTION 6262. DO NOT CODIFY. Transformation and Efficiencies Act
13 transition team.

14 (a) The Governor may select up to twenty-five (25) state employees to
15 form a transition team to assist in the implementation of the Transformation
16 and Efficiencies Act of 2019.

17 (b) Upon selection by the Governor, each transition team member:

18 (1) May be temporarily reassigned job duties to assist the
19 transition team;

20 (2) Shall continue to be paid from the employee's existing
21 position and by the state entity employing the transition team member; and

22 (3) Is authorized to report to work at an alternate location to
23 perform the duties of the transition team.

24 (c) Service on the transition team shall not affect the employee's
25 time of service or any benefits the employee may receive, including without
26 limitation health insurance benefits or retirement benefits.

27 (d) The Governor, or his designee, shall prescribe the duties of each
28 transition team member.

29 (e)(1) The Transformation and Efficiencies Act transition team shall
30 expire on July 31, 2019.

31 (2) The Governor may return members of the transition team to
32 their existing positions before July 31, 2019.

33
34 SECTION 6263. EMERGENCY CLAUSE.

35 (a) It is found and determined by the General Assembly of the State of
36 Arkansas that the Transformation and Efficiencies Act of 2019 revises the

1 duties of state entities, creates new departments of the state, and creates
2 new positions in the state; that these revisions are extensive and will
3 require new policies and procedures to be developed to implement the
4 transition; that a team of existing state employees will be needed to assist
5 in the implementation of the Transformation and Efficiencies Act of 2019;
6 that this transition shall occur on July 1, 2019, and policies and procedures
7 will be required to be developed before that date; that a new class code,
8 grade, and line item maximum for each cabinet-level department secretary must
9 be submitted prior to July 1, 2019 for legislative approval before the
10 implementation of this act; and that Sections 6261 and 6262 of this act are
11 immediately necessary because the transition to the new government structure
12 will require the dedicated efforts of state employees currently performing
13 other duties prior to the effective date of the remaining sections of the act
14 on July 1, 2019. Therefore, an emergency is declared to exist, and Sections
15 6261 and 6262 of this act are immediately necessary for the preservation of
16 the public peace, health, and safety shall become effective on:

17 (1) The date of its approval by the Governor;

18 (2) If the bill is neither approved nor vetoed by the Governor,
19 the expiration of the period of time during which the Governor may veto the
20 bill; or

21 (3) If the bill is vetoed by the Governor and the veto is
22 overridden, the date the last house overrides the veto.

23 (b) It is found and determined by the General Assembly of the State of
24 Arkansas that this act revises the duties of certain state entities; that
25 this act establishes new departments of the state; that these revisions
26 impact the expenses and operations of state government; and that Sections 1
27 through 6260 of this act should become effective at the beginning of the
28 fiscal year to allow for implementation of the new provisions at the
29 beginning of the fiscal year. Therefore, an emergency is declared to exist,
30 and Sections 1 through 6260 of this act being necessary for the preservation
31 of the public peace, health, and safety shall become effective on July 1,
32 2019.

33
34 */s/A. Davis*